Vol. I and Vol. II

80-6090

IN

THE SUPREME COURT OF THE UNITED STATES
WASHINGTON, D. C.

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SUPREME COURT, U.S.

BETTY (MINYARD) STEIN

VS.

JOSEPH E. FRANK AND
FRANCES FRANK

NO. _____
No 74-8893-Idallas Cty. Ct. No.
Dallas
NOS. 22620 Ct. of Civ.
22621 App.
22624
22639 App. To Proceed IN FORMA PAUPERIS
226-89 and Writ of Mandamus
_____ Writ of Mandamus
* Transferred to
NO 5328 Eastland Ct. of Civ. App.
NO B-8982 Supreme Ct. of Texas

Volume I

JURISDICTIONAL STATEMENT

(a) Questions presented by this appeal are as follows:

No 1

1. Whether or not the county court at law of Judge Bill Coker, denied Petitioner due process of the law, allowed equal protection of the laws, deprived Petitioner of her Federal Civil rights, by depriving Petitioner, under the color of office her state civil rights, guarantees of the Texas state Constitution as to her protection of her property rights and under the Texas Bill of Rights as to property protection and the Federal Bill of Rights as to protection of her property, committed extrinsic fraud against her as against Texas tort laws, etc. as follows when (a) Judge Bill Coker told Petitionet that challenges for cause were limited ? And when Judge Coker refused to allow Petitioner to listen to the tapes taken during the hearing in his office with the official court reporter present and taking notes at that time by stating that he no longer had jurisdiction of the case? See pp Transcript from County Court At Law p 577 in 2nd Removal For Cause Petition. The instruments concerning Judge Bill Coker's refusing Petitioner to listen to the tapes on this point was filed after the transcript and(supplemental transcript which was refused by the appellate court when properly and timely requested) on administrative duties of the Judge concerning the statements of facts being made to conform to the truth etc. and being allowed to listen to the tapes for material left out of the statements of facts and not being transcribed even over request and objections etc. but a certified copy is attached under (h) herein.

(b) Whether or not the Fed. Dist. Court of Judge Higginbotham erred in the matter of Judge Coker stating that challenges for cause were limited since Judge Coker with without authority to defraud concerning well-known ministerial duties concerning challeges for

cause?

(Whether or not the Eastland appellate court aforesaid and the Texas Supreme Court aforesaid erred in these matters since all points of error were requested to be ruled upon that were pres ented that were material points on issues raised on appeal and writ of error? Statement of points in brief, supp. brief pp. in obj. and exc. tr. pp.

2. WHETHER or not Judge Bill Coker erred and the Eastland appellate court erred and the Texas Supreme Court erred on Petitioner*s point of error in briefs and points of error in writ of error concerning Judge Bill Coker putting Petitioner (ejecting her) who was defendant in his court out of the courtroom at the times convenient to himself and attorney for plaintiffs , respondants herein, during the trial below AND WOULD NOT EVEN ALLOW HER TO LISTEN to the trial in order to make her objections and exceptions at the proper time to preserve error for appeal? Trs. pp 701; 738, 750 etc. Briefs. pp. 11 and 12 on Sixth Point of Error and Restatement of that point on p. 43, 44,45; Writ of Error to Sup. Ct. p. 14, restatement p. 28 which is Second Point of Errof in writ of error

3. Whether lower court, Eastland appellate court, Texas Sup. ct. erred concerning (1) Lack of jurisdiction due to Lack of fundamental necessary issues to establish exemplary damages. Writ of Error to Sup. ct. of Texas p. 12, restatement p. 23; p. 12, rest. p. 25. (3) Appellate courts failed to Order-Up Missing material. writ of Error p. 13, rest p 26.?

(4) Whether or not the courts erred on Petitioner"s Third Point of Error in her writ of error concerning the lack of evidence on issues of fraud, wanton conduct and malice and willingness. writ of error pp. 15, rest. p.p. 31 thru 32?

(5) Whether or not courts erred on Petitioner"s Fourth Point of error in her writ of error p. 15, rest. p32-34 concerning Petitioner"s statutory lien for rent due by operation of law which protects her from charges of fraud for holding "cleaning and damage bond" money until appellees, respondants herein, paid their rent due and owing and met their other obligations concerning cleaning and damages to the leased apartment which pleadings herein and verdict and judgment herein clearly show was due and not paid to the date of the application for writ of error (nor to this present date of the writing of this jurisdictional statement) as a deposit holder under our Texas laws and Federal laws. p. 15, rest 33 thru 34.

(6) Whether or not the aforesaid courts erred concerning Petitioner"s Fifth Point of Error concerning the appellate court in overruling all of appellant"s Petitioner"s objections and exceptions to that court not answering all of her material points of error to issues raised? Writ of Error p. 16, p. 35 writ of error, rest.?

(7) WHETHER OR NOT THE APPELLATE COURT AND TEX. SUP CT. ERRED

Appellate and Supreme Ct. of Tex.

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in failing to answet "Appellant"s Motion for Supplementary Findings by it"s Too Swift Action in overruling her Motion For Rehearing, writ of error p. 16, rest p. 36 thru 37.

(8) Whether Appellate Court erred and Sup. ct. erred in afirmance in holding appellant pro se strictly responsible for procedural Harmless Error ? p.? 16, rest 37thru38.

(9) Whether the appellate court erred and the supreme court erred in affirming the untimely ruling on appellant?s Motion for Rehearing? p. 16, rest. p. 38 thru 39

ct. below

(10) Whether the appellate Court erred and Tex. Sup. Ct. in affirming; since the verdict below showed no answer by the jury on any actual damages which are necessary to support the issue of exemplary damages, etc. p. 17, rest. p 39thru 40 in writ of error to Sup. Ct.

and Sup. ct. erred

(11) Whether the appellate court erred since There is no evidence to support the judgment in law or fact, or equity, even p. 17,rest. p. 40th41?

(12) Whether the appellate court and sup. ct. erred in failing to recognize the objections and exceptions made to the statements of facts herein, p. 17, rest. p. 41?

(13) Whether the appellate court erred and the Sup. court erred since it failed to or ignored rather the polygraph test showing appellant Petitioner herein was not guilty of any FRAUD TOWARDS APPELLEES NOR ANY TENANT . p. 17, rest. p. 41 -42?

(14) Whether the appellate court erred and the Sup. ct. erred in affirming in the appellate court"s not withdrawing It"s opinion, etc. p. 18, rest.42-43?

(16) Whether court below, appellate court and the sup. ct. in affirming the fact that both courts denied appellant the right to proceed in forma pauperis and causing her damage when she had no funds. p. 18, rest. p. 43 thru 45? Concerns 16th Point of Error in writ of error to Sup. Ct.?

(17) Whether appella e court erred and supreme court in affirming appellant Petitioner"s Motion For Judgment n. o. v.; motion for instructed verdict, motion to Dismiss since the Motion For Judgment n.o.v. clearly showed that there was no evidence produced by appellee respondants attorney on issues of wanton conduct and malice nor was there an issue on wanton conduct in order to support jury"s award for exemplary damages to support the issue of fraud. Briefs p. 19 etc;and The Motion the appellant Petitioner."s Motion For Instructed Verdict

clearly showed that appellee respondants fabricated in stating in their in their pleadings that appellant Petitioner never refunded any bond money to anyone since appellant Petitioner produced at the trial a former tenant (statement of facts p. ____ . Donald Br. 12-18-rest. p 62 p 93 Bagg owner of Texas Meat Co. who swore under oath that his bond was refunded by appellant Petitioner. Brief p. 12-1. and appellant"s Petitioner"s Motion To Dismiss should have been granted since the Statute of Limitations had run on the two year tort claim of alleged Fraud. Briefs- p. 19 rest. p. 79 and the county court at law No. 1 of Judge Bill Coker lacked jurisdiction therefore. Trs. 124-126; 131; 144; 163-165 on pp 19 of application for writ of error? And Peittioner"s Motion To Dismiss The Jury Before Trial Br. p. _____, Rest. p. _____?

(18) Whether appellate court and Texas Sup. court erred in overruling point of error concerning the court belfow in not granting Motion To Set Aside Judgment p. 20, p. 18 in Br. rest. p 63?

(19) Whether the appellate court and supreme court erred point that concerns Judge Bill Coker destroying the Docket Sheet. Br. p-20, rest. p. 24?

(20) Whether or not the appellate court and supreme court erred in overruling point of Error 24 in the county court at law judge below refused to make statement of facts conform to the truth? Br. p 26-27, rest. 76

(21) Whether the appellae court and supreme court erred since appellant Petitioner"s Motion To Quash should have been granted? Br. p 20 , p. 27. Trs. p. 690 , rest. p. 73

(24) Whether or not the appellate court erred and the supreme court erred since the record clearly shows that the requirements of the Statute of Frauds had not been met when Frances Frank testified under oath that a reasonable time had been allowed for the vacated premises to be inspected by lessor Petitioner which placed the lime under the lease for a period of more than twelve months or one year it was recognized just prior to the trial by the appellant Petitioner and the plaintiff Frances Frank as aforesaid testified to this fact and agreement agteeing to a longer period of time actually than the one year or twelve month period but her testimony was taken out of the statement of faacts by Bryan Coday substitute official court reporter for the county court at law No. 1 and he after the trial was set up in a new office? Br. p. 16 (17.) Trs. p. 64-65; 797 etc. 732. rest. 734 p. 60 since the appellate court and the supreme court were requested to rule upon all of the points of error under the law but refused to do so illegally and wrongly? FIFTH POiNT OF ERROR, Br. 16 rest. p 34 in writ of error INdex, p 2

(18) WHETHER or not the appellate court and supreme court erred since the lower court erred in not allowing appellant to make all of her objections and exceptions and state her grounds th ough out the trial on occassions in which Judge Coker took the opportune time to eject her from the courtroom in order that she could not object and except to evidence of the appellees" attorney which he wanted to offer before the jury free and clear of any objections and exceptions and grounds of appellant such as the Interrogatories requested by Plaintiff for appellant to answer which had illegally been deemed true by the oourt at a time when it"s jurisdiction had not been completed.. over the persons, since no address of the plaintiffs had been given at that time and they were never revived or restored when the court wrongfully and illegally allowed appellees to amend since they were guilty of laches add the case should have been dismissed in the Federal Court under the law when it found that the jurisdiction below was not complete---------? B. p. 19, rest. p.65.

(19) Whether or not the appellate court and supreme court erred as to Petitioner"s NINETEENTH POINT OF ERROR which shows that the court below erred when it abused it"s discretion and disallowed appl-lant"s cross- action which is really a counterclaim? B.p 20, rest. p66

(20) Whether or not the appellate court and supreme court erred when the proof offered by them did not conform to the pleadings? B, p. 21, rest. p67

(21) Whether or not the appellate court and supreme court erred concerning the failure of the lower court to give it"s conclusions of law after proper and timely request to do so. B. p. 22, rest. 69-70?

(22) Whether or not the appellate court and supreme court erred concerning the illegal and wrongful actions of the lower court in the lower court"s placing in the closet behind his deputy-clerk"s desk all of Petitioner"s bills of exceptions and affidavit which had already been filed without the judge"s approval since Petitioner was accusing Judge Coker of Fraud? p. 23 of Br., rest. p.72.

(23) Whether or not the appellate court and supreme court erred concerning Judge Coker"s destroying the original docket sheet dated Sept. 16, 1978 which reflected the filing of part of her bills of exceptions and affidavit in support thereof? Br. p 24, rest. p.73-75 thru 26

(24) Whether or not the appellate court and supreme court erred Whether or not the appellate court and supreme court erred concerning the refusal of the court below to make the statements of facts conform

to the truth and refused to order transcribed the objections and exceptions to the issues presented in chambers proposed by appellees; and that it also refused to order transcribed the objections and exceptions to the entire court"s charge made by Petitioner in open court; and that it refused to order transcribed Petitioner"s motion for an instructed verdict and her objections and exceptions to the ruling of the court; and that the court refused to order transscribed her motion for another jury and appellant Petitioner"s objections and exceptions thereto, and the court"s refusal to order transcribed her motion for a judgment n. o. v. made in open court and her obhections and exceptions thereto and the court"s refusal to order all of her objections and edceptions and grounds transcribed which he did get to make in open court and all that she did not get to make in open court since the Judge Coker was time and time again ejecting her from the court room illegally since she was guilty of no wrongdoing and no one was left in the courtroom in her behalf and she was not even allowed to LISTEN to the trial at those times --------? Br. p26 thru27, rest. p76.

(25) Whether or not the appellate court and supreme court erred concerning the court below failing to grant Petitioner"s Motion For Judgment on the pleadings? Br. p. 27, rest. p.78-79.

(26) Whether or not the appellate court and supreme court erred concerning the failure of the lower court to grant defendant Petitioner"s Motion summary judgment and renewed motion for summary judgment. Br. p. 27, rest. p.79

(27) Whether the appellate court and supreme court erred concerning the failure of the court below to grant Petitioner"s Motion to Dismiss? Br. p. 27 rest. p 79

(30) Whether or not the appellate court and supreme court erred concerning the fact that the court acted as the attorney for Norman Hines Jr. appellee respondants attorney while he was carrying on a case in another court during a hearing in which he had sufficient notice herein this case below, Br. p. 28, rest. p.80?

(29) Whether or not the appellate court and supreme court erred concerning the failure of the court below to grant any of appellant Petitioner"s motions to amend except her interrogatories as to be answered by the appellee plaintiffs, Br. p 28, rest. p.80?

(33) Whether or not the appellate court and supreme court erred concerning the final judgment personally drawn up by Judge Bill Coker and not the appellee respondant"s attorney Norman Hines Jr. since the appellees produced no evidence to support their contentions that appellant Petitioner breached her contract with them nor any evidence that appellant Pet . had committed any fraud since she had a statutory lien to protect her in holding their property(the cleaning and damage bond money) until the balance of their rent was paid in full and until she could have the opportunity to prove in court all of her damages to her property and to herself which the court below did not allow her to do---? Br. p 28-29 rest. p. 84-85

(34) Whether or not the appellate court and supreme court erred concerning

the failure of the appellee respondants to file a sufficient affidavit concerning appellant"s Petitioner"s motion for judgment on the pleadings? Br/ rest. p. 78

(34) Whether or not the appellate court and supreme court erred concerning the fraud, misconduc, and oppression whit Judge Coker told in it?s proposed bills of exceptions that it did not instruct the official court bailiff to not allow appellant Pet. to even LISTEN TO THE TRIAL in which she was representing herself pro se during the time she was ejected from the court room without reason except to throw the case to aid the attorney to get her property?. Br. p. 30, rest. p 86

(35) Whether or not the appellate court and supreme court erred concerning Judge Bill Coker telling appellant Pet. that her statements of facts would not be manekvered in any way or words similar to these AND THAT SHE COULD TRUST THE COURT as to the transcript and statements of facts or w ods similar to these and that much of the material which is essential to her proper appeal is missing from the $ranscript and statement of facts as aforesaid? Br. p. 31, rest. 87-88.

(36) Whether or not the appellate court and supreme court erred concerning the county clerk, the deputy clerks, and the official court reporter and substitute court reporters who did not do their duty and insert all of the essential material into the transcript and statements of facts which are essential to appellant Pet"s. appeal? Br. p 31, rest. p. 87

(37) Whether or not the appellate court and supreme court erred concerning the fact that the court below failed to insert into the court"s xharge any of appellant"s questions of fact submitted by appellant Pet. since she was allowed to meet averment with averment of appellee plaintiff respondants in her pleadings even under a general denial which was imposed wrongly upon her? Br. p. 31, rest.88,89.

(39) Whether or not the appellate court and supreme court erred concerning the c ourt below when that court allowed s ricken all of appellant"s Pet"s. pleadings under almost special exceptions made by plaintiff appellees respondants herein? Br. p. 31 , rest p. 90

(45) Whether or not the appellate court and the supreme court erred concerning the refusal of the court below to answet any of the questions of law presented by the appellant, Pet; and, and the court below erred since the answered questions of law, if properly answered, would show there were that there were no material fact issues to go to the jury by operation of law, and therefore the court erred since the statute of limitations had run on the tort claim, and the fundamental requirements of the law that wanton conduct be plead and proved or proven without objections (and Pet. made timely obj. and exceptions throughout the trial when she was in the courtroom and not in the hall where she was not allowed to listen even since she tried to listen from the hallway and the bailiff told her that the judge had instructed him not to allow Pet. to listen even. Wanton conduct is a necessary requirement to support exemplary damages? etc. Br. p. 3?. rest. p. ~~9-91~~ 97

(41) Whether or not the appellate court and the supreme court erred concerning the judgment which gave Norman Hines Jr. $100.00 concerning the interrogatories? Br. p. 32, rest p. 92

(42) Whether or not the appellate court erred and the supreme court also concerning the refusal of the court below to gtant the motion for instructed verdict made during the trial when Norman Hines Jr. was shown to have committed fraud upon the court ? Br. p. 32, rest. p 93-95-9

(40) Whether the appellate court erred and the supreme court erred concerning the court below in allowing Plaijntiffs" appellees respondants: Interrogatories answered by appellant to the best of her ability into evidence since they were null and void by operation, since the court had no jurisdiction at the time they wereanswered, and they were not reinstated after the plaintiffs respondants amended as to jurisdiction illegally and since laches ran against them? Br. p. 32, rest. p. p 90

(44) Whether or not the appellate court and supreme court erred concerning the court below refusing to dismiss the law suit when requested to do so by motion? Br. 32, rest.97

(46)

(47) Whether or not the appellate court and supreme court erred co cerning appellant Pet"s Motion to vacate the verdict? Br. p 33 restt. p. 98

(47) Whether or not the clerk"s office erred since the transcript does not contain a listing for the verdict? Br. p 33. rest. 98-99

(46) Whether or not the appellate court and supreme court erred concern the court"s refusal to grant appellant Pet"s Motion For Judgment? Br. p 33, rest. p 98

(49) Whether or not the appellate court and supreme court concerning the court below in refusing to grant appellant Pet"s Motion For Order Overruling All of Defendant! Motions, Requests W etc. have been filed to Date Except The Few That Have Been Granted" as a catch all for those not overruled by the Judge below? Br. p. 33 rest. p 100.

(b) Please see footnote

Footnote: Parties are Joseph E. Frank and Frances Frank who are Respondants herein, appellees, and plaintiffs below
Betty (Minyard) Stein who is Petitioner Petitioner herein, appellant, and defendant below

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(b) Attached hereto is the copy of the original opinion of the Dallas, Texas Court of Civil Appeals For the Fifth Supreme Judicial District of Texas, which was (the original allegedly was) thrown away or destroyed in some manner and the appellate court would not therefore send a copy of it to the Eastland, Texas Court of Civil Appealsk or the Eleventh Supreme Judicial District as requested to do so by Petitioner herein; therefore Petitioner sent her copy of the original opinion of the Dallas Appellate court to the Eastland Appellate Court concerning Petitioner's motion for writ of Mandamus. Also, attached hereto is a copy of the second original opinion of the Dallas Appellate Court concerning the Petitioner's second forced writ of mandamus. Attached hereto also is the Proposed Judgment of Norman Hines Jr. attorney for the Respondants herein and the Final Judgment of Judge Bill Coker which was personally drawn by him and not by Mr. Hines Jr. and the OPINION of the Eastland appellate court for the Eleventh Supreme Judicial District where this case was transferred after the Dallas appellate court had ruled twice upon the writs of mandamus aforesaid; and attached hereto is the Judgment of the Texas Supreme Court on Petitioner's Petition for Writ of Error and the Supreme Court of Texas' order overruling Petitioner's Motion For Rehearing which was made on Oct. 8, 1989 and it is from this order that Petitioner is appealling to the Supreme United States Court of the ~~U.S.~~ that Petitioner is appealling as follows;

(c) The jurisdiction of this Supreme Court of the United states is involked on the grounds that Petitioner has been in the hands of agressive communistic incompetent personalities during the inception of this case and during this case and during appeals since she was found to own real property which appellee respondants with the aid of communistic judges and highly inflamed jury and attorney since Petitioner was a landlady who found it necessary to keep a cleaning and damage bond deposit which had absolutely nothing to do with the rent due under the lease except after the cleaning and damage was paid for any remainder, if any, could be held until the balance of the undue and owing rent was paid to Petitionerd The attorney herein Norman Hines Jr. the record clearly shows is of immoral and non professional character as well as Judge Bill Coker and Joseph E. Frank and Frances Frank as well as the two court rep-

orters in this case MyraaParrish and Bryan Codayd The lady clerk in the Dallas Appellate Court for the Fifth Supreme Judicial District alson since she delibertly attempted to manipulate the first original writ of mandamus which was reported by her as havbeen destroyed and many more delibert wrongs. Also, those responsible for conspiring with Norman Hines Jr. who had prior officed in the same connected buildings who were attorneys, etc. in the Highland Park Ind. School District case in which Petitioner had successfully and personally obtained a reversal of a summary judgment which they had manipulated to get. The Texarkana appellate court in Apr. 1976 reversed that case for trial and to this date there has never been a trial; etc. therefore there has been a complete failure of due process of the law, unequal protection of the law, Federal civil rights deprivations, State civil rights deprivations, extrinsic frauds for over six years now in the case herein. etc. and this Supreme Court is the final arbiter in due process cases etc, and therefore these are some of the grounds upon which the jurisdiction of this case is involked.

(i) This is an appeal to this United States Supreme Court. This appeal is brought under the United States Constitution, Art. 3 sec 2 cl 1 and 2 which clearly states that "The Judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States ----------" and Cl2 clearly states "----------.In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to the Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make." And Petitioner has not found an exact statute in the matter above, but, if there is one, this supreme Court can easily take judicial notice of that which is common knowledge to them. But if any statute attempts to change this above law under the guise of an exception or regulation then that federal statute is unconstitutional is Petitioner"s contention. The case Robert G. Gallagher, appellant vs. Robert E. Quinn, et al Judges of the United States Court of Military Appeals, et al. 363 Fed. 2 301.

And United States Federal Constitution,U.S.C.A. Amend 5.

(ii) This appeal is from The judgment of June 25, 1980 of the Texas Supreme Court. The motion for rehearing was denied on Oct. 8, 1980 and the notice of appeal was timely filed by placing same in the mail to the Texas Supreme Court timely but they did not file mark it until October 21, 1980. The Petitioner had prior requested the Texas Supreme Court to hold the records there pending the ruling on the motion for rehearing in order that the Supreme Court could send the instruments in the record to this court, but, it record was sent to the appellate court in Eastland and Petitioner picked it up there with funds she borrowed from a son and with a rent car the friend secured for her by leaving a deposit with the car rental agent since Petitioner had no funds to get to Eastland from Dallas, Texas in order to obtain the records for this appeal and which were necessary for Petitioner to draw up this jurisdictional statement, etc.

(iii) Petitioner as yet has found no statutory provision to confer jurisdiction but is relying upon U. S. Const. Art 3 sec 2 cl 1 and cl 2 as aforesaid for jurisdcition in this supreme Court;

and if there is an exact statute confering jurisdcition in this appeal then this supreme Court can easily take judicial notice of it since it is common knowledge to this court then. And, also this court is under a duty to advise as to what the law is to a person appearing pro se and also has the power to make motions of it s own. And if there is a statutory provision against this appeal then it is unconstitutional based upon the wording of Art. 3 sec 2 cl 1 and cl 2 as aforesaid and upon the case used by Petitioner above. is Petitioner's opinion of what the law is .

(f) The case of Gallagher v. Quinn, Et al Judges ----, 363Fed2 301 as aforesaid under 4. Courts "The United States Supreme Court is the final arbiter of due process under the Federal Const. U. S. C. A Const. Amend 5.

(g) STATEMENT OF THE CASE, ETC. 1.

This case which originated in the County Court At Law No. 1, Dallas county, Dallas, Texas on July 25, 1974 was a suit brought for alleged-breach of contract in a landlord and tenant case. The Plaintiff"s First Original Amended Petition was not filed until June 19th, 1975 and it stated a new cause of action with a much larger amount of money being plead for and the new cause of action was an alleged tort claim which allegedly began at the inception of the lease oral contract for the rental of an apartment by the Plaintiffs, Joseph E. Frank and Frances Frank which was Apt. No. 2 at 6602 Westchester Dr. Dallas, County. City of University Park, Tex. from lessor, Betty (Minyard) Stein who was the defendant bedow.

11.

This rental of defendant Petitioner"s apartment by the Franks, plaintiffs, appellees, respondants herein was a deliberate set-up to discredit defendant, appellan.,Petitioner herein .

Petitioner did not realize she was being framed by these tenants and others until the day Joseph E. Frank knocked loudly upon her front door shouting that Petitioner"s little dog had bitten a lady who was jogging by and it was quite obvious that he had been drinking since he repeatedly shouted at Petitioner in the situation and gave the lady his card if she wanted him as a witness as to the Petitioner"s little dog allegedly biting the lady. Petitioner after repeated requests to the lady then and there demanded that she pull up her slack leg and show Petitioner the alleged bite; but, the lady refused to do so at first and Petitioner insisted strongly until the lady did so and to Petitioner"s surprise there was no bite whatso-ever on the lady"s leg. Judge Coker would not allow Petitioner to testify to this fact since he was manipulating the case and had put Petitioner upon contrived general denial so he could more easily manipulate the case. And it was at the time of the dog-biting incident that Petitio er began to realize that what she had suspected prior about the lessee Franks was that they were creating a situation to breach their lease by forcing Petitioner lessor to ask them for their apartment by giving Petitioner a bad time.

IV.

Petitioner did respond naturally to these horrible situations, some of which will be stated later, by giving the Respondants notice to vacate the apartment within the thirty day period agreed to by both parties in the lease agreement in the event the apartment was to be vacated either willingly or unwillingly by either party. And the thirty-day period ran until .. Apr. 3, 1973 which was some nine days over the one-year plus a reasonable time for inspection period since the one-year period was up on Mar. 25, 1973. The notice to please vacate was given on appr. Mar. 2 or 3 of 1973 and respondants rent was paid until Mar. 25th, 1973 and that left them owing appr. nine days rent to Petitioner on Apr. 3, 1973 the day in which respondants moved from the premises.

V.

Petitioner states this rental and case were a set-up to discredit her since in 1970 Petitioner had gone to trial with the Lewisville INd. School District and the City of Lewisville, Texas as intervenors in that suit for delinquent ad valorem taxes which were excessive, inequitable, and confiscatory taxes upon farm land which was being taxed wrongly and illegally at potential development rates rather than rate and value based upon present use as the Texas Const. clearly states. Petitioner at that time she was in the hands of the agressive communists in the school district and city involved and their attorneys and Denton County, Texas Judges, and clerk and some of the deputy clerks, and court reporter for the 158 court of Judge

Scofield. Petitioner was successful in personally getting that civil tax case reversed partially in the Ft. Worth Court of Appeals For the Second Suprmme Judicial District. And the part she got reversed for jury trial after the instructed verdict in the court below was concerning the padded attorneys" fees. Her amended answer as to the excessive, inequitable, confiscatory taxes had not been put into the copious transcript purposfully and appellant Peititioner did not discover this until too late and she had to mortgage her four-unit apartment building to stop the illeg l foreclosure and has suffered financially ever since to the point of doing without necessities even. And on this appeal she wrote of the communistic acts committed against her by the shcool district and city attorneys, and others aforesaid all the way up to this United States Supreme Court but this court gave Retitioner no help from these agressive communists and later in 1975 Petitioner filed a Bill of Review in that case for all of the extrinsic fraud and communistic acts but it has never gone to trial since the school attorney died and also since Petitioner has never had any time or funds to proceed with it but she plans on doing so just as soon as she gets the funds, etc since much crime was in that case against her and she feels is still being committed against others in similar situations.

V.

The lessor respondants, the Franks, moved into the premises os respondants in March of 1972 and the decision of that school district and city tax case came from the appellate court in Ft. Worth in the summer of 1972 therefore Petitioner was constantly talking with Frances Frank and sometimes with Joseph D. Frank about the case below and the various appeals and the communistic acts towards Petitioner. And, Petitioner had found out that Frances Frank was a former teacher school who had quit teaching for various reasons and among them the low salaries; therefore, naturally Petitioner found out would be angered at Petitioner for fighting high ad valorem taxes.

Vl.

The Highland Park Ind. School District in 1970 had completed a new east-wing across from Petititioner:s apartment building in which the Franks had leased Apratmrne No. 2 and prior to that in 1967 Petitioner had appeared at the zoning hearing wherein the school District of Highland Park had requested a zoning change in order to set the east-wing closer to the street than the ordinance allowed. The city of University Zoning Bard allowed the zoning change and Petitionwe was present to object and clearly stated that such a change would destroy her apartments since that would put the east-wing too close to her apartment building, but they ignored and insulted her and allowed the change. And Petitioner had stated at that time that she would be compelled to sue the school district of Highland Park;

The Lewisville Ind. School District and Intervenor City of Lewisville, Texas had already attack Peitioner in the ad valorem tax case in 1968 but Petitioner was successful for a short time in that she was given a favorable judgment in 1970 but it was short lived since Judge Schfield set it aside after granting it and allowed the school district and city to sue again.

VI.

In that first tax suit the state and county ware parties but they dropped out when they were paid by Petitioner the non excessive, non-inequitable, and non-confiscatory tax and therefore they did not join into the second tax suit against her.

VII.

With the knowledge of what Petitioner could do in the courts since she had gotten part of the seocond tax case reversed for jury trial and pointed out the crimes and communistic acts that had been committed against her and other delinquent ad valorme people who had literally lost their whole properties and her knowledge of the law and degree in social sciences a whole attack was launched against her since it was common knowledge then that she was when she got the time and before the statute of limitations ran against her to file a claim for injunction and damages against the Highland Park Ind. School District for building the east-wing appr. thirty-nine feet from the front entrance to the apartment building and therby destroying her rental property and her only income except the then $50.00 per month from the farm which was only $50.00 per mon th for all those years prior to David Inman leasing appr. 1972 when he paid her $150.00 per month for the farm rent until 1967 after the city of Lewisville burned down Petitioner"s old homestead and barns except one barn and that was burned down in 1976, July 19 and Peititioner had told the city appeals board that she had no fire insurance on the property she recalls just prior to the burning down by the City of Lewisville, Texas.

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VIII.

An attorney named Harold Adams took this suit at first for the Franks which is hopfully on review by this Supreme Court; but, it was switched to Norman Hines Jr. who Petitioner years later and shortly before the trial in 1978, June, just found out that Norman Hines Jr. had childten in the Highland Park Ind. School District High School which was directly across from Petitioner"s Building and had children in that school at the same time Petitioner had her two youngest sons in that school. Doing the course of the pre-trials herein the mail sent to Mr. Hines in the case got mixed up with the mail Pethtioner sent to Richard Gray the school District attorney for Highland Park Ind. School District and it was also found at that time that they officed in adjoining buildings Mr. Hines then in the Republic National Tower and Mr. Gran in the Republic National Bank Building. Mr. Hines in conspiracy with the aforesaid attorney and the school district of Highland Park Ind. School District against whom Petitioner got a summary judgment reversed for trial in Apr. 1976 by the Texarkana appellte court which case indidentially has never gone to trial . Mr. Hines was told to get me and this he has done after more than six-years of heavy battle involving much time, energy and expense on both sides over what was a simple law suit concerning a refusal by Peitioner to refund a $350.00 cleanin g and damage bond posted by the respondants the Franks for the apartment they leased in order to cause a disturbance and involve Petitioner in this set-up suit in order to frame her by contending fraud upon her part in order to discredit her as aforesaid.

VIII.

As aforesaid Petitioner was unaware just what was happending to her exactly until the aforesaid-dog biting incident, although, she did prior suspect something was wrong when the Franks, respondants refused to call the police when petitioner was having trouble with a former tenant she had to ask to move and petitioner later learned that the Franks had incited him. He was taking some of Petitioner"s property from the apartment and Petitioner was absolutely helpless against this

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very stocky young man and Petitioner could not move very well since her gall bladder operation adn was helpless and was truing to hold on to her property when she begged the Franks who appeared in the doorway to please call the police but she refused by stating that she did not want to get involved. The police later made the yoong man bring back the property and place it back into the apartment and the Franks told him of the city attorney for the city of Highland Park, Texas who would get him off from the charge Petitioner had filed with the City of University Park, Texas against him since they knew that attorney and another attorney who had given Petitioner in a bum steer with knowledge in getting William Andress Jr. in the T.P. and L. Co. condemnation case in 1967 and this attorney and the T.P. and L. Co. worked in conspiracy to steal a one-fourth interest in land belonging to Petitioner"s children under an easement by oper. of and Petitioner is still fighting those battles and is now presently in the Ft. Worth court of appeals again in the matter and in the District court in Denton wherein she has asked for a change of venue due to the untrustworthiness she has found in the District County Cistrict courts and clerk"s office and court reporters, etc.

IX.

This background of conspiracy and communistic agression brings us to the communistic agression and crimes during the pre-trials, removals for cause, three in number, and trial, pre-appeal, appeal to the the Dallas Ct. of Appeals For the Fifth Supreme Judicial District wherein application to proceed in forma pauperis was filed, writs of mandamus and denied were filed and denied, and then the appeal herein was transferred over 100 miles away to the Eastland Court of Civil Appeals For the Eleventh Supreme Judicial District, and on the the Texas Supreme Court from which court Petitioner has appealled to this Supreme Court of the United States.

X.

Judge Bill Coker in the county court at law No. 1 wherein this law suit was filed by respondants in July 25th, 1974 for breach of contract and was amended in July 19, 1975 for a new cause of action, the tort claim of fraud for a mush larger amount of money at the outset allowed respondants attorney Norman Hines Jr. to strike by special exceptions

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. . p. ------ all of Petitioner's material facts set forth in her Answer as a defense to this contrived law suit. . . p. -----. And defendant appellant Petitioner in shock made all of her objections and exceptions properly and timely thereto. -----

XI.

Judge Coker next signed an order striking out the counter-claim called cross-action made by Petitioner by stating that the amount was out of his jurisdiction. . . . --- and Petitioner countered with much material concerning this matter. . . p. _____

XII.

Judge Coker put Petitioner on a general denial, . . ____ and it was properly and timely rebutted. . p. -----.

XIII.

Judge Coker would not allow Petitioner to file her removal for cause papers . . . ------ and would not allow Petitioner to remove for cause and would not give her time to draw up her removal papers when her threw Petitioner into trial. . . -------

XIII.

Petitioner after she was thrown into trial that night, the first day of the trial, drew up the removal for cause kpapers and filed them before trial the next day and Judge Coker with knowledge of Petitioner having prior to voir dire of Petitioner desiring to remove for cause wnet ahedd with the trial over objections and exceptions and this was a communistic move to manipulate the rights of Petitioner also.

XIV.

Petitioner had good cause to remove since she was being deprived of her civil rights, Federal and state since during the trial that day also, Judge /coker simply would not allow her to defend herself and ordered her to not say anything in her defense and would not allow those statements of facts to be transcribed as requested properly, timely and since pauper*s application had been granted later and this was a communistic act by Judg Coker to control the appeal and material

aggressive

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and material on appeal, Trs. p. _____

XV.

After the remand to the state court Judge Coker would not allow Petitioner to amend in order to get her counter-claim reinstated. Tr. p. ----------

XVI.

During the voire dire when the second jury was being selected Peitiioner asked the bailiff to check herself out whether or not challenges for cause were limited and he stated that he thought that they were but he would have to ask the Judge Coker and Judge Coker called the court and Norman Hines Jr. and Petitioner into his office for a confere and Petitioner asked him if challenges for cause were limited or not and Judge Coker stated that they were limited, and by that time Petitioner remembered that they were not limited and stated to the Judge Coker, " Judge Coker don"t you remember from law school the expression (witness, interest, bias, and judgment and prejudice)" as being the key words concerning challenges for cause and Judge Coker stated that he did not remember that expression from law school. And Petitioner objected and excepted . . . _____ and Judge Coker refused to allow later this situation being allowed to be put into the statements of facts for that day. and this failure delibertly and with knowledge of the fundamental ministerial requirement of allowing unlimited challenges for cause was communistic. Petitioner at this time had not reached the point of reducing a challege for cause to writing since the Judge stated that challeges for cause were limited wrongly and without authority to do so since this was a ministerial act not to limit challenges for cause in any manner. . . _____ and this was an agressive communistic act with knowledge.

XVII.

Petitioner had prior to this second jury selection called to the Judge Coker*s attention that the statute of limitations had run much against the new cause of action for a greater amount of money, etc. but the judge refused to acknowledge the running of the statute of

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limitztions.

and Petitioner always timely made her objections and exceptions to this point and all points in writing.

XVlll.

To digress a bit, and before the first jury was selected herein, Petitioner for a period of one and one-half years had requested that Norman Hines Jr. correct the apartment no. of his clients from the plead apartment No. 3 to Apt. No. 2 which was the apartment the Franks leased and he would nevet do so. And, finally after many costly papers being filed in this matter, Petitioner threatened to request and did request that the court order the utility companies to respond with the correct apartment no. in which the Franks resided as bding apartment No. 2 rather than no. 3 as plead, and with this order before the court, Norman Hines Jr. finally made a motion to interline and it was granted that his clients the Franks resided and leased apt. No. 2 rather than apt. No. 3. And this fact was of the utmost importance since Norman Hines Jr. in an immoral manner and non-professional manner and character was attempting to actually plead his clients in apt. no. 3 since his trick interrogatories had purposfully and with prior knowledge asked what deposit the former tenant who was taking Petitioner?s property and resided in apt. no. 3 just what amount of deposit that apt. at that time was posted and that amount was $100.00 for apt. no. 3 since it was occupied by a single young man with no children etc. and he had his own carpets where the apt. No .2 which the Franks leased required a $350.00 cleaning and damage deposit or bond since there twere two adult persons and a baby and the carpets were furnished whichwas new wool carpets of a pale subtle pink color or shade rathr and the cleaning and damages would probably under these circusmstances be much more. In his criminal communistic manner, Norman Hines by his deceit and trickery was trying to show that the 100.00 deposit plus the $250.00 rent paid by the Franks totaled $350.00 which deposit they posted in order to attempt to show that $250.00 of that deposit was for any rent due and owing as security which was

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a babrication purposfully done to support his contention of fraud and to attempt to show that a part of the cleaning and damage bond or deposit was for a rental deposit. Appx. p. 216 - Dkt. 5 and 6 And, during the third jury trial it was shown by Petitioner that Norman Hines Jr. had committed fraud since the letter was introduced into evidence which showed clearly that Norman Hines had knowledge of the apartment as being apartment no 2 and not no 3 and this letter was written to Norman Hines Jr. before he took the case and here was clear fraud upon the court again by him. See p. Appx. 10 and the letter was introduced as an exhibit No. 18 taken on June, 1979 during that third trial which resulted in a judgment against Petitionr for $4,000.00 appr. Appx p. 83 - 88 - and all objections and exceptions were made by Petitioner and her was another act of agressive communisum to attempt to discredit Petitioner and to get her propetty since she has no money.

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To get back on the track again, Petitioner made a Motion For Summary judgment and a renewed Motion For Summary Judgment whcich were both denied wrongly. ---------- there were no material issues due to the operation of the law in that the statute of limitations had run against the new cause of action in tort for a much greater amount of money since the cause of action the fraud claim which was a tort action was alleged to have occurred at the inception of the contract in March just prior to the beginning of the lease on Mar. 25, 1972 and the new cause of action was not brought until July 19, 1975 which was a much longer period than two year period to bring tort claims arising out of the alleged breach of contract claim and for a much greater amount of money. ---------- ----------.

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Also, in the second removal for cause for civil rights deprivation etc. petitioner alleged no jurisdiction of the county court nor

for the Federal District courr of Judge Higginbotham for that matter she found out while in that court since the plaintiffs respondant"s Norman Hines Jr. would ever plead a requested address of the plaintiffs and with his lack of delibert response then the court below nor the Federal court had completed jurisdiction and the Federal court should have dismissed therefore under the law, ----------

And the county court would not allow her to amend her petitition wrongly since much time was available before time for trial and therefore the court committed communistic agression also with knowledge of his ministerial failure herein in allowing an answer to be amended since more than the required time to do so was available before the trial and petitioner was denied due process under the Fifth Adm. to U.S. and due process of the law under the Fourteenth Adm. to U. S. Const., equal protection of the law, unfair play, deprivation of her Fed. Cviil rights and state civil rights therefore, and rights under both Fed. and State Bill of Rights etc. as plead for all of the wrongs done to her as listed above, etc. appropriate

Trs. p. ----------

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Petitioner was wrongly denied her motion to dismiss, motion to quash motion for judgment on the pleadings, motion for judgment, motion to vacate verdict ; motion for instructed verdict; motion for judgment m. o. v. and wrongly denied any of her propsoed fact issues and was wronged by these communistic acts to frame her.

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and she made all of her objections and exceptions timely and properly and according to the law but the court was imposing communistic law in aiding and abetting the setting her up. ----------

---------- in his orders denying Petitioner almost all of her motions herein this entire law suits.

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Judge Coker refused during the trial of the case herein before a jury Petitioners motion for an instructed verdict when Petitioner had shown by evidence entered in the case as an Exhibit the letter of Harold Adams the first attorney for the Franks to Norman Hines Jr. wherein Mr. Adams stated clearly that the clients, tenants, the Franks, respondants herein resided in apt. no. 2 and therefore Mr. Hines defrauded the court when he plead the Franks in apt. No. 3 wtih the purpose and design to defraud the court herein, although the Judge Bill Coker himself was a part of the scheme to defraud as has been clearly shown by his wrongful delibert acts since he knew Petitioner was pro se and not cleaver enough to catch him or Mr. Hines and since Federal Judge Hill in the third removal for cause was a part of the scheme eventually and possibly before since it was discovered after being in his court that he also had children in the Highland Park High School aforesaid and when the case dame into his court that was the reason for his sarcasum and communistic acts and in placing Petitioner under and injunction told her she could not remove for cause under any circumstances and this gave Norman Hines Jr. and Judge Coker a free hand during the trial to committ all of the crime against her since they knew she would be findd and placed in jail as threatened by Judge Hill if she returned in a removal for any cause under any circumstances which is exactly what occurred on the thrid removal for ccause. And Petitioner at all time exercised good faith and has never in her whole life known anything but good faith and this is the reason for her strength in these matters and her fight against this savage communisum against her because she has property and knows how to defend it under our laws and this they cannot stand since they are agressive communists as aforesaid as evidenced by theri criminal acts against her. And she has not gone without mental emotional and physical pain and loss of time and energy and necessities in defendaint herself and her property and she is still fighting all lthe way up to this supreme court who hopfully is not agressively communistic or communistic even since communisum involves

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any means to an end personalities.

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The court erred, or Judge Bill Coker erred rather when he personally drew up the final judgment in this case and inserted the actual damages himself since the jury did not award any actual damages contra to the law in order to support the extreme exemplary damages that they did award. In his first original final judgment which disappeared from the original records after Petitioner obtained a copy of it and sent a certified copy of it to the Eastland appellate court where it disappeared from that Eastland appellate court since in that first version of the final judgment drawn personally by Judge Coker the court stated that it was granting plaintiffs(appellees respondants) their motion for judgment which judgment was the proposed judgment prepared by Norman Hines Jr. But, later a second original final judgment appeared in the original records and at that time and until the time petitioner obtained a certified copy of the first original judgment which she had not even detected the difference at the time she obtained the certified copy of it ans sent it to the appellate court in Eastland that there was a second original copy of the final judgment and in rehearsing just how she had gotten a copy of the second original final judgment into her records after a copy of the first original final judgment had been sent prior to her thru the mail petititioner remembered that the official court reporter no. 1 Myra Parrish of the county court at law, Dallas, County, Texas had handed her a copy of it leading her to believe that it was an exact copy of the first original final judgmen which it was not since the words that the court had granted Norman Hines Jr. his judgment or "plaintiffs their judgment" rather and had included the actual damages by Judge Coker when actual damages was a fact question for the jury and the question was asked of them the verdict shows but it was left blank by them purposfully and therefdore the court erred and committed fraud upon the court and crime and agressive communistic avyd. All trace of the first original final judgment has disappeared from the records and from Petitioner*s copies also since when she was

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doing her Bill of Exceptions and she observed that she had two copies of the final judgment and at that time did not know that a second original final judgment had been drawn and slipped to her since she had already done her objections and exceptions stating that the final judgment which was sent to her by the clerk of the court was not supported in law nor fact. P. 162-186-ggg.

and when the appellate court read the objections and exceptions along with the second version of the final judgment then it would not make sense. The second final judgment got into the transcript since it was filed after the first original version of the final judgment and was therefore on the bottom of the material filed and when the yound deputy clerk was preparing the transcript she naturally picked up the seocond final judgment and when she came to the first final judgment since they looked the same as a whole but not indetail then she naturally already having on in the transcript the first original final judgment did not include this one in the transcript but when petitioner went to the clerk's office to get a copy of the final judgment she acdentally got the first original final judgment and she underlined the words with pen that the court had granted the plaintiffs their judgment whihdh had been cut out of the second original final judgment and which had been drawn and placed in the original records after she had made her objections and exceptions that the final judgment was not supported in law or fact and therefore the appellate court would think she was out of her mind. And the first original final judgment disappeared from the records of the appellate court in Eastland and was never acknowledged as having been received by the lady clerk. And this is comministic agression and repugnant to our constitutional laws since petitioner since petitioner and her case were in the hands of incompetent and criminal personalities as aforesaid . . .

Material to the appellate court. . .

24.

Petitioner also observed after the verdict,

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and before the first or second original judgment that before exemplary damages may be given by a jury they must first give actual damages as aforesaid and she also discovered that in order for a jury to also give exemplary damages there must have been pleadings and proof or proof if the pleadings are not timely objected to of WANTON CONDUCT, along with malice and willingness to support an award of exemplary damages and the pleadings and amended pleadings of plaintiffs, appellees, respondants never at any time showed wanton conduct and wanton conduct was never proven ant any time or mentioned at any time the statement of facts show during the entire case and trial and petitioner brought this fact to the attention of the judge as fundamental error required by the law before the final judgment and he overruled her motion. It was mentioned in her motion that the verdict was defective. Appx. 153-161 and ruled on and it motion for for was mentioned in her judgment - . N. o. V. and overruled. .

Fundamental error may be shown after the verdict for the first time and even on appeal . . .. p. ----------

and the court delibertly denied due process and due process of the law etc. as aforesiad to petitioner. .

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The court of civil appeals in Dallas, Texas erred and the clerk erred in not granting application to proceed in forma pauperis and concerning the writs of mandamus requesting statements of facts and supp. transcript since material necessary to the appeal was in that material. and both court and clerk erred and the clerk erred in not sending the writs of mandamus, etc. to the appellate court in Eastland upon and demand request to do so since the appellate court in Eastland asked why Petitioner did not make writ of mandamus concerning her missing materia

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26.

The eastland appellate court among the many other errors stated in their opinion attached that Petitioner could not bring up the subject of the statute of limitations having run against respondants for the first time on appeal when the record clearly shows that it was brought

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up below and was one of the causes for removal for the second time into the Federal court of Judge Higginbotham as aforesaid and the court, appellate court and supreme court denied due process of the law and due process, etc. as aforesaid etc. and proceeded in communistic acts therefore against the petitioner with knowledge in holding no reversible error and an affirmance of that judgment and did these aame acts in all of the points of error answered and left unanswered since the law clearly states that all points which are material to the issues involved must be answered by the appellate court and by the supreme court therefore and ultimate

THE appellate court, Eastland appellate court that is, and the Texas Supreme Court erred since in Petitioner appellant"s SUPPLEMENTAL BRIEF FILED IN the Eastland appellate court on June 11, 1979 clearly shows that the FINAL JUDGMENT drawn up personally by Judge Bill Coker was never rendered although signed by him (and this statement applies both to the First Original Final Judgment drawn up personally by Judge Coker which is missing from the original records of the case which are in the County Clerk s office, Dallas, Texas and the certified copy of the First Original Final Judgment, and the Second Original Final Judgment). At the time of the supplemental brief being drawn and filed by Petitioner appellant in that court she had not yet detected that there was a First Original Final Judgment and did not discover that fact until after she had gone to the County clerk/s office in Dallas and requested a certified copy of the Final Judgment in order that she might send it to the Eastland appellate court showing that Judge coker had clearly stated in that First Original Final Judgment that the court granted plaintiffs' their JUDGMENT which was in reference to the proposed Judgment drawn and filed by Norman Hines Jr. but which was delibertly not put into the transcript after it had been filed attached to the Motion For POST TRIAL ADMENDMENT by Norman Hines Jr. after the trial and dudge Coker disallowed the inst. "Motions; motion FOR LEAVE TO ADM PLEADING BY TRIAL ADM.: Trial Admendment which Proposed attached Mot.a For Judgment had enbodied in it for the Judge to sign. . p. ------ but the Proposed Judgment is missing from the transcript and Petitioner now has attached a copy of it hereto . And here is error and fraud upon the face of the record and therefore the appellate court and Supreme court erred. See appendix herein for copy of the Proposed Judgment of Mr. Hines which is missing from the transcript.

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The Eastland appellate court and Texas Supreme Court erred concerning Petitioner appellant's ADDITIONAL SUPPLEMENTAL BRIEF FILED IN THE EASTLAND APPELLATE COURT concerning point of Error No. 53 since it is fundamental error on the face of the record showing that the verdict awarded exemplary damages which cannot under the law be given under a mere contract such as a very common lease a contract which was oral to rent an apartment for a period of one year plus a reasonable time for inspection upon the apartment being vacated. McCormick on Damages p. 286. entitled " In What CLASSES OF CASES MAY EXEMPLARY DAMAGES BE ASSESSED

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Sec. 81 FOR ANY KIND OF MALICIOUS OR WANTON OR OPPRESSIVE CONDUCT, ACTIONABLE AS A TORT, EXEMPLARY DAMAGES, ETC. _____". "US ACTIONS HOWEVER UPON MERE PRIVATE CONTRACTS except the action for breach of promise of marriage, even where the breach is malicious and unjustified, exemplary damages are not allowable. and attached to that supplemental brief is a copy of that law as Exhibit "A' in that instrument filed in the Eastland appellate court and Texas Supreme court. And the courts as aforesaid erred.

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Both aforesaid courts, the Eastland appellate court and the Texas Supreme Court since upon sometimes after June 26, 1979 Petitioner appellant accidentally discovered that there was a FIRST ORIGINAL FINAL JUDGMENT which had cleaverly been replaced with a SECOND ORIGINAL FINAL JUDGMENT which FirST ORIGINAL FINAL JUDGMENT AFTER BEING ACCIDENTIALLY DISCOVERED BY Petitioner appellant since both instruments looked alike exactly except that Judge Coker had taken out the words that "the court grants Plaintiffs, (appellees, respondants herein) their judgment" etc. (which refered to the proposed judgment aforesaid prepared and filed by Mr. Mines which is missing from the transcript after having been delibertly taken out by Judge Coker?s order without the knowledge of Petitioner appellant, then these acts of Judge Coker are and were clearly fraud lupon the court by him since Petitioner made her OBJECTIONS AND EXCEPTIONS TO THE FINAL JUDGMENT BASED UPON THE FIRST ORIGINAL FINAL JUDGMENT SINCE SHE AT THAT TIME AND AT NO OTHR TIME HAD KNOWLEDGE THAT JUDGE COKER SLIPPED INTO THE RECORD THE SECOND ORIGINAL EINAL JUDGMENT since both OF THOSE FINAL JUDGMENTS WERE SIM Ply entitled FINAL JUDGMENT AND JUDGE COKER HAD THE COURT REPORTER MYRA PARRISH TO HAND TO PETITIONER APPELLANT HIS SECOND VERSION OF THE FINAL JUDGMENT WITHOUT STATING THAT THERE HAD BEEN ANY CHANGES BUT INTENTIONALLY LEADING HER TO BELIEVE THAT THIS WAS MERELY ANOTHER COPY OF THE FIRST VERSION OF THE FINAL JUDGMENT since Petitioner appellant stated to Myra Parrish when Miss Parrish handed her the second version of the final judgment that here was a second copy when Petititioner stated to Miss Parrish that Petitioner had already received a copy of the FINAL JUDGMENT AND this is the second when the fraud ;upon the court occurred by Judge Coker thru his official court reporter, Myra Parrish and Miss Parrish left his employment when she learned thru papers filed in his court after the appeal and concerning Judge Cokerk"s administrative duties that the going was going to be a little rough and this act of leavint his employment

when Miss Parrish had knowledge that petitioner appellant was going to request and demand to listen to the tapes for material lmissing from the statements of facts as aforesaid in this case, etc. and therefore the courts erred.

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The Dallas appellate court, the Eastland appellate court and the Supreme court erred since Petitioner appellant had made motions for leave to file Petition for writs of mandamus on two different occassions which had been delibertly sabotaged the first time the record shows by Mrs. Jeannette Johnson clerk of the Dallas appellate court when she delibertly would not allow the attachments to be appended thereto since they were so copious illegally and wrongly and in the Dallas appellate court allegedly destorying that first opinion thereon; and in denying the second motion for leave to file and Petition for writ of Mandamus which can be found on p. 252-260 of appx. _____ of the filed instruments . And Mrs. Johnson refused to upon request and demand send to (attached instruments) in Appx. p. 250 the Eastland appellate court copies or the originals of those motions and writs and opinions since the Eastland appellat court stated in their opinion wrongly that Petitioner appellant should have made motions for the writs of mandamus to get all of the missing-material into the record from the original records and from the statements of facts, and concerning the failures of the county clerk, Mrs. Johnson etc. But they thought since she was proceeding below for transcript and statements of facts as a pauper then they could control what she meeded in the way of material for appeal and illegally so. And the courts erred. See Appendix pp. _____ _____.

31.

The Eastland appellate court erred since it would not make the timely requested and demanded findings filed by Petitioner appellant. See appendix pp. _____ and the court erred.

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The appellate court and Texas Supreme Courts erred since Petitioner made OBJECTIONS AND EXCEPTIONS TO THE PROPOSED OR FILED STATEMENTS OF FACTS, TRS. P. 1084 etc. App. A since the statements of facts over objections and exceptions of dissatisfaction with the narrative form having left out all of the small bit of testimony of Mr. Dwayne Rook that the apartment No. 2 leased by the Franks was left dirty and that a chadlier was left broken, etc. and also that the testimony of Frances Frank swezring under oath tha a reasonable amount of time was agreed to by both parties to be allowed for inspections of the premises after lessees vacated and this important testimony was taken out since that would make the lease agreement for a period longer than one year or twelve months and therefore the Statute of Frauds requirements as to a signed writing between the parties were not met since a period for a longer term than one year or twelve months was given in evidence by lessee Frances Frank while being questioned by her own attorney Norman Hines Jr. and this material was delibertly left out since the court in this event would have no jurisdiction based upon her testimony on this point and therefore both courts erred. And, also Petitioner requested under the law question and answer form after the narrative was insufficient and merely what the court reporters thought important and therefore they left out much material which would have been impossible to get by by-stander's affidavits and especially so since the jury could not be used as by-standers since they were all highly inflammed and prejudiced against property owners since all were tenants and for mer tenants with some having had past bond problems with their landlords and only one memeber dof the jury owned property and he was a former tenant with bond problems to the best of Petitioner"s memory. Full statements of facts reflecting the truth would have shown this fact but the judge simply would not allow Petitioner to have them and the court reporters would have changed them also. And therefore the courts erred. Even if Petitioner had money for them, they would have been changed also.

33.

Both aforesaid courts erred since Petitioner would not agree to the Bills of Exeeptions made by the Judge Coker since he was guilty of fraud upon the court in many aforesaid respects and also in taking or ordering to be taken from the filed original records all of her Bills of Exceptions and Affidavit thereto 1 thru 159 and ordering them locked in the deputy clerk"s oloset outside of his chambers. and the court erred. Appendix. p. 187 thru 223 and both courts erred since the county court judge was guilty of fraud upon the court.

(k) These questions simply must be answered by this court in order to stop this agressive communisum which is crime against individual citizens with property in order to discourage these kind of crimes against individual innocent citizens who aee protected in this type of case to keep cleaning and damage bonds or deposits under state laws who provide them with statutory liens as shown in this case . _____ and with these liens, then a innocent citizen can hold the bond money until the balance of the rent is paid (since the rent was agreed not to be taken out of by the parties to the lease of the deposit money and the deposit money can be further held unti the cleaning and amages are paid or until the matter has been determined in a court of law (not communistic laws by communists) and their own laws as shown herein, withoutk a trumped up charge of fraud and if fraud does appear in a trial after the lessor has had a fair opportunity to present his entire case without his counter-claim being destroyed and put on a general denial and lessor has had a fair day in court, then the charges of fraud may be brought if proven which in this case the record clearly shows that they were not. Petitioner did intend to keep the bond or deposit money if the apartment was left unclean and damaged, which it was; but, she would gladly have refunded it if the respondant lessees had kept their promises under the oral agreement which at that time in 1972 was perfectly legal and more practical for a term of a year and the texas law allowed this for expediency purposes but changed in 1975. Lessee respondants just simply sent themselves up as judge and jury and changed the agreement.

Wherefore, Premises Considered, Petitioner prays that this judicial Writ of Error be granted and that the cause be docketed with briefs on the merits to follow.

Respectfully Submitted

Mrs. Kelly Morgan

Pro Se

Dear Mr. Rodak:
Kindly attach to my jurisdictional statement in the Hill and Coker consolidated case

CERTIFICATE OF SERVICE

I certify that a copy of the affidavit below has been sent to Mr. Norman Hines Jr. and R.L. Veley at their offices as well as to Lagarde and Baldree, and Miss Judith Shephard at their offices aforesaid in Dallas, Tex. on Jan. 20, 1980.

RECEIVED
JAN 26 1981
OFFICE OF THE CLERK
SUPREME COURT, U.S.

AFFIDAVIT

STATE OF TEXAS

COUNTY OF DALLAS

Before me Jessey R Hawkins Jr notary public in and for Dallas County, Texas personally appeared Betty (minyard) Stein who is known personally to me and she does solemnly swear and under oath sayeth on this the 19 day of Jan, 1981: I, Betty (Minyard) Stein do solemnly swear and under oath sayeth that all of my statements in my jurisdictional statement, Betty Minyard (Stein) vs. Judge Robert Hall et al and Judge Bill Coker, et al. Consodldated are true to my personal knowledge and that I prepared said Jurisdictional Statement and placed same in the U. S. depository for mail on Dec. 20, 1989 with suffipostage placed thereon and sent said statement certified return. Said jurisdictional statement was filed on Dec. 29, 1980 and returned to me for failure aallegedly to comply with the rules. I thought that I had complied with the rules to the best of my ability except I learned just prior to doing thejurisdictional statement in the Frank case appeal to this court that the form of the jurisdictional statements had changed; therefore, I rearranged the returned jurisdictional statement of and made corrections material I had inadvertently left out and sent a corrected copy to the opposition herein.

I placed in the mail on Jan. 6, 1981, the jurisdictional statement in the Frank case; therefore, it is my opinion that it would be considered timely filed under the rules since for it not to be so considered would be discrimination between pro se and attorneys who have a full ninty days by calling the clerk's attention to the timely post-mark.

Mrs Betty Minyard (Stein)
BETTY (MINYARD) STEIN

Stein

SWORN TO AND SUBSCRIBED TO BEFORE ME AND KNOWN PERSONALLY TO ME BY BETTY (MINYARD) STEIN AND THAT ALL OF HER STATEMENTS ARE TRUE TO HER PERSONAL KNOWLEDGE IN aFFIDAVIT ABOVE ON THIS THE 19 DAY OF JAN 1981

Dallas County
notary public in and for Dallas County, Dallas, Tex. and my com. exp. on the 21 day of June 1981

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Certificate of Service - I certify that a copy of the Motion for Leave to file Petition for Writ of Habeas Corpus, and Petition for Writ of Habeas Corpus, and Brief in Support of Petition for Writ of Habeas Corpus, and Motion for Stay of Execution, and Motion for Leave to Proceed in Forma Pauperis, and Affidavit in Support of Motion for Leave to Proceed in Forma Pauperis, and Motion for Appointment of Counsel, and Motion for Evidentiary Hearing, and Motion for Discovery, and Motion for Production of Documents, and Motion for Expert Assistance, and Motion for Funds for Expert Assistance, and Motion for Funds for Investigative Assistance, and Motion for Funds for Mitigation Investigation, and Motion for Funds for Psychiatric Assistance, and Motion for Funds for Psychiatric Examination, and Motion for Funds for Neurological Examination, and Motion for Funds for Neuropsychological Examination, and Motion for Funds for Psychological Examination, and Motion for Funds for Psychological Testing, and Motion for Funds for Psychological Assistance

No. B-8982

IN THE SUPREME COURT OF TEXAS

* * * * *

BETTY (MINYARD) STEIN

vs.

JOSEPH E. FRANK ET UX.

* * * * *

Certified copy of Order of the Supreme Court of Texas. (Application for Writ of Error REFUSED—N. R. E.)

— — — —

IN THE SUPREME COURT OF TEXAS

June 25, 1980

No. B-8982

BETTY (MINYARD) STEIN

vs.

JOSEPH E. FRANK ET UX.

From DALLAS County,

ELEVENTH District.

Application of petitioner for writ of error to the Court of Civil Appeals for the Eleventh Supreme Judicial District having been duly considered, and the Court having determined that the application presents no error requiring reversal of the judgment of the Court of Civil Appeals, it is ordered that said application be, and hereby is, refused.

It is further ordered that applicant, Betty (Minyard) Stein, and Lawyers Surety Corporation,

pay all costs incurred on this application.

October 8, 1980

No. B-8982

BETTY (MINYARD) STEIN

vs.

JOSEPH E. FRANK ET UX.

From DALLAS County,

ELEVENTH District.

Petitioner's motion for rehearing of application for writ of error having been duly considered, it is ordered that said motion be, and hereby is, overruled.

I, GARSON R. JACKSON, Clerk of the Supreme Court of Texas, do hereby certify that the above and foregoing is a true and correct copy of the orders of the Supreme Court of Texas in the case numbered and styled as above, as the same appears of record in the minutes of said Court under the dates shown.

WITNESS my hand and the seal of the Supreme Court of Texas, at the City of Austin, this, the 19th day of December, 1980.

109-8

GARSON R. JACKSON, Clerk

By Mary M. Wakefield, Deputy.
Mary M. Wakefield

Betty Minyard Stein, | From the County Court at Law No. 1 of Dallas County.

Vs. No. 5328 | September 13, 1979

Joseph E. Frank et ux, | Opinion by Brown, A. J.

This cause came on to be heard on the record and the same being inspected, it is the opinion of the Court that there was no error in the judgment. It is therefore ordered, adjudged and decreed that the judgment of the trial court be, and the same is hereby, in all things affirmed, in accordance with this Court's opinion. It is further ordered that the costs incurred by reason of this appeal be, and the same are hereby, taxed against appellant, Betty Minyard Stein, principal, and Lawyers Surety Corporation, surety on her appeal bond, for which let execution issue, and that this decision be certified below for observance.

Betty Minyard Stein, | November 8, 1979

Vs. No. 5328 |

Joseph E. Frank et ux, | This day came on to be heard Appellant's motion for rehearing and the same, having been duly considered, is hereby overruled.

109-h

THE STATE OF TEXAS, I

COUNTY OF EASTLAND, I

I, OLETA MOSELEY, Clerk of the Court of Civil Appeals, Eleventh Supreme Judicial District of Texas, do hereby certify that the above and foregoing is a true and correct copy of the judgment and order overruling motion for rehearing in cause no. 5328, Betty Minyard Stein v. Joseph E. Frank et ux, as the same appear now of record in my said office.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 19th day of December, 1980.

Oleta Moseley

OLETA MOSELEY, CLERK
Court of Civil Appeals
11th Supreme Judicial District
Eastland, Texas

LD9-c

Betty Minyard Stein

Appellant

Vs. No. 5328--Appeal from Dallas County

Joseph E. Frank et ux

Appellees

Joseph E. Frank and Frances Frank sued Betty Minyard Stein for refund of a security deposit which plaintiffs deposited with defendant when renting defendant's apartment and for exemplary damages. Based on the jury's verdict, judgment was entered awarding plaintiffs $350 damages representing unreimbursed rental deposit less credit due defendant for unpaid rent in the amount of $66.64, plus $106.67 interest, $4,000 exemplary damages, and $100 attorney's fees with interest on the total recovery at the rate of 9% per annum from date of judgment. Betty Stein appeals. We affirm.

This cause has had a long judicial history. It was filed on July 25, 1974 and judgment was entered July 14, 1978. During that period, Ms. Stein made several unsuccessful attempts to transfer the cause to federal court. The cause was both tried and appealed pro se.

The court in Mansfield State Bank v. Cohn, 573 S.W.2d 181 (Tex.1978), discussing applicable rules with reference to matters handled pro se, said:

> No basis exists for differentiating between litigants represented by counsel and litigants not represented by counsel in determining whether rules of procedure must be followed. With respect to a criminal case, the United States Supreme Court has said:
>
> > The right of self-representation is not a license to abuse the dignity of the courtroom. Neither is it a license not to comply with the relevant rules of procedural and substantive law.
>
> Faretta v. California, 422 U.S. 806, 835 n. 46, 95 S.Ct. 2525, 2541, 45 L.Ed.2d 562 (1975). There cannot be two sets of procedural rules, one for litigants with counsel and the other for litigants representing themselves. Litigants who represent themselves must comply with the applicable procedural rules, or else they would be given an unfair advantage over litigants represented by counsel. Stein v. Lewisville Independent School District, 481 S.W.2d 436 (Tex.Civ.App.--Fort Worth 1972, writ ref'd n.r.e.), cert. denied, 414 U.S. 948, 94 S.Ct. 272, 38 L.Ed.2d 203 (1973).

Ms. Stein was also the appellant in Stein v. Lewisville Independent School District, 481 S.W.2d 436 (Tex.Civ.App.--Fort Worth 1972, writ ref'd n.r.e.), in which the court said:

> There are limits, of course, and despite the forbearance of the parties (adversary under our system of jurisprudence)

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this court is bound to apply the law and rules of procedure without consideration of who the parties might be or how inadequate their representation, in complete equality of treatment under the law. In other words we may not give Ms. Stein any special consideration because she is a widow, is attempting to represent herself--and her grown children--without the aid of an attorney, and has overlooked matters which might have been of some benefit had there been adequate pleadings and proof. We must treat the case as though her acts and her failure to act occurred with benefit of licensed counsel.

TEX.R.CIV.P. 418 provides in part:

> (d) Points of Error. A statement of the points upon which the appeal is predicated shall be stated in short form without argument and be separately numbered. In parentheses after each point, reference shall be made to the page of the record where the matter complained of is to be found. Such points will be sufficient if they direct the attention of the court to the error relied upon.
>
> (e) Brief of the Argument. A brief of the argument, presenting separately or grouped, if germane, the points relied upon for reversal, the argument to include (i) a fair, condensed statement of the facts pertinent to such points, with references to the pages in the record where the same may be found; and (ii) such discussion of the facts and the authorities relied upon as may be requisite to maintain the point at issue. If complaint is made of any charge given or refused, such charge shall be set out in full. If complaint is made of the improper admission or rejection of evidence, the full substance of such evidence so admitted or rejected shall be set out with reference to the pages of the record where the same may be found. Repetition or prolixity of statement or argument must be avoided.

We have carefully examined the transcript consisting of five volumes and 1246 pages, the statement of facts, the fifty-three points of error presented in appellant's original and amended briefs, together with appellant's "supplemental brief," an additional "supplemental brief," her answer to plaintiff/appellees' "supplemental briefs" and appellant's "post-submission brief." Based on such instruments, appellant has failed in most instances to properly preserve error either by proper objection, request, bill of exception, or by properly prepared bystander's bill. She has failed to comply with TEX.R.CIV.P. 418 in the presentation of her points of error in that each of the fifty-three points of error are either global, multifarious, or without argument or cited authorities. However, insofar as this court may, the briefing rules will be liberally construed in an effort to ascertain the real basis of the appeal. TEX.R.CIV.P. 422; In re Marriage of Greer, 483 S.W.2d 490 (Tex.Civ.App. - Amarillo 1972, writ dism'd). As stated by the court in Volkswagen of America, Inc. v. Licht, 544 S.W.2d 442 (Tex.Civ. App. - El Paso 1976, no writ):

> We did not refuse to consider any point or argument because the same was defective or not properly briefed. We did so only because the point had not been assigned as required by the Rules of Civil Procedure. No amount of rebriefing can cure a failure to properly assign error in the trial Court.

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In several different points of error, Ms. Stein argues that there is no evidence to support the jury's findings and that the trial court erred in failing to grant her a directed verdict or a judgment non obstante veredicto.

A directed verdict and a judgment non obstante veredicto may be rendered only when there is no evidence of probative force to support a special issue finding. Eubanks v. Winn, 420 S.W.2d 698 (Tex.1967); White v. White, 172 S.W.2d 295 (Tex.1943). When considering "no evidence" points, the evidence is to be viewed in a light most favorable to the jury's findings of fact, considering only the evidence and reasonable inferences which support the findings and rejecting the evidence and reasonable inferences which are contrary to the findings. Garza v. Alviar, 395 S.W.2d 821 (Tex.1965); Renfro Drug Co. v. Lewis, 235 S.W.2d 609 (Tex.1950). Having reviewed the record by this standard, we overrule Ms. Stein's "no evidence" points.

Appellant's point of error urging that appellees' claim of fraud was barred by the two-year statute of limitations is overruled. The defense of limitations was not affirmatively pled as required by TEX.R.CIV.P. 94, nor does the record reflect that it was tried by consent of the parties. The defense of limitations was therefore waived and cannot be urged for the first time on appeal. Franco v. Allstate Insurance Co., 505 S.W.2d 789 (Tex.1974); Mergele v. Houston, 436 S.W.2d 951 (Tex.Civ.App. - San Antonio 1968, writ ref'd n.r.e.).

Ms. Stein complains of the trial court's failure to file findings of fact as requested by her. This point is without merit since this was not a case "upon trial by the court" that requires such findings by the trial judge. TEX.R.CIV.P. 296; Ditto v. Ditto Investment Co., 309 S.W.2d 219 (Tex.1958); T. A. Manning & Sons, Inc. v. Ken-Tex Oil Corporation, 418 S.W.2d 324 (Tex.Civ.App. - Austin 1967, writ ref'd n.r.e.).

In her next point of error, Ms. Stein contends that the trial judge erred in ordering that the appellees' Request for Admissions directed to her be deemed admitted. We overrule this point.

Ms. Stein did not comply with the provisions of TEX.R.CIV.P. 169, nor did she show any excuses for her failure to do so. Burnett v. Cory Corporation, 352 S.W.2d 502 (Tex.Civ.App. - Dallas 1961, writ ref'd n.r.e.). Under Rule 169, the trial court has considerable discretion in refusing or granting a motion to deem answers admitted. As stated Sanders v. Harder, 227 S.W.2d 206, at 208 (Tex.1950):

> The primary purpose of the rule is to simplify trials by eliminating matters about which there is no real controversy, but which may be difficult or expensive to prove. It was never

> intended to be used as a demand upon a plaintiff or defendant to admit that he had no cause of action or ground of defense. When the language of the rule is considered in the light of its purpose, there is no doubt that some discretion is lodged in the trial court in its enforcement.

We hold the trial court did not abuse its discretion in ordering that the Request for Admissions be deemed admitted. Meyer v. Tunks, 360 S.W.2d 518 (Tex.1962).

Appellant also contends that the trial court erred in awarding attorney's fees to the appellees for expenses incurred in having their Request for Admissions deemed admitted. This contention is without merit. Our rules of procedure provide for the awarding of attorney's fees in a situation such as this. TEX.R.CIV.P. 169 and 215a; Tharp v. Blackwell, 570 S.W.2d 154 (Tex.Civ.App. - Texarkana 1978, no writ).

We overrule Ms. Stein's points urging fundamental error.

Our Supreme Court has stated in Newman v. King, 433 S.W.2d 420 (Tex.1968):

> The right of an appellate court to reverse a trial court judgment on unassigned error is limited to situations in which the error can properly be classified as "fundamental error." Ramsey v. Dunlop, 146 Tex. 196, 205 S.W.2d 979 (1947).

Although we have not found an all inclusive definition of fundamental error given by any of our courts, the court in Ramsey v. Dunlop, 205 S.W.2d 979 (Tex.1947) said:

> We do hold that an error which directly and adversely affects the interest of the public generally, as that interest is declared in the statutes or Constitution of this state, is a fundamental error.

The court in McCauley v. Consolidated Underwriters, 304 S.W.2d 265 (Tex.1957) held that assuming jurisdiction where none exists was fundamental error.

Appellant's alleged fundamental error points are not such points.

Appellant argues that the trial court "erred in not dismissing the selected jury when appellant complained in open court that the jury selected were prejudiced." Whether a juror is biased or prejudiced is a factual determination to be made by the court. In the event the evidence is conflicting, that determination should not be disturbed if it has support in the record. Swap Shop v. Fortune, 365 S.W.2d 151 (Tex.1963). We have examined the record and determined that the trial court's action was not an error.

Ms. Stein complains of the failure of the court reporter and county clerk to include certain material in the transcript and statement of facts. She did not seek, however, a writ of mandamus to compel these officials to perform their

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statutorily defined duties. Fine v. Page, 572 S.W.2d 577 (Tex.Civ.App. - Eastland 1978, writ dism'd). This point is overruled.

Appellant filed a counterclaim which exceeded the jurisdictional limit of the trial court. She now complains that the trial judge erroneously dismissed her counterclaim.

The trial court in the present case, the County Court of Dallas County at Law No. 1, has jurisdiction only where the amount in controversy does not exceed $5,000. TEX. REV. CIV. STAT. ANN. arts. 1970-3, 1970a (1964). We, therefore, hold that the trial judge was correct in refusing to entertain the defendant's counterclaim for an amount greater than $5,000.

The decision of our Supreme Court in Gimbel & Son v. Gomprecht & Co., 89 Tex. 497, at 498, 35 S.W. 470 (Tex.1896), is decisive of this question. That case held that a county court had no jurisdiction to try a civil cause in which the matter in controversy exceeded the jurisdictional limit set out in TEX. CONST. art. V, § 16, even though the matter was asserted as a counterclaim in a suit where the original claim was within the jurisdictional limit. This was held to be so notwithstanding that the net amount to which defendant might have been entitled was within the court's jurisdiction. Kitchen Designs, Inc. v. Wood, 584 S.W.2d 305 (Tex.Civ.App. - Texarkana 1979, no writ); Manly v. Citizens National Bank in Abilene, 110 S.W.2d 993 (Tex.Civ.App. - Eastland 1937, no writ); Turner v. Larson, 72 S.W.2d 397 (Tex.Civ.App. - Amarillo 1934, writ dism'd).

Ms. Stein now complains of the damage issue submitted by the trial court. The record, however, is silent as to any objection by Ms. Stein to the court's charge prior to its submission to the jury. Unless a party objects specifically to a charge, any defect, omission or fault in pleading shall be deemed waived. TEX.R.CIV.P. 274; American Transfer and Storage Company v. Reichley, 560 S.W.2d 196 (Tex.Civ.App. - Amarillo 1977, writ ref'd n.r.e.); Lanphier Construction Co. v. Fowco Construction Co., 523 S.W.2d 29 (Tex.Civ.App. - Corpus Christi 1975, writ ref'd n.r.e.); City of Amarillo v. Betts, 429 S.W.2d 685 (Tex.Civ.App. - Tyler 1968, no writ).

Appellant's points of error which raise complaints for the first time on this appeal will not be considered. Matters not presented at trial and raised for the first time on appeal will not be considered by the reviewing court. Adams v. American Quarter Horse Association, 583 S.W.2d 828 (Tex.Civ.App. - Amarillo 1979, no writ); Brunson v. Brunson, 372 S.W.2d 761 (Tex.Civ.App. - Amarillo 1963, no writ).

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We have considered and overrule all other points of error. The judgment is affirmed.

It is further ordered that this opinion not be published in accordance with TEX.R.CIV.P. 452.

/ RALEIGH BROWN

ASSOCIATE JUSTICE

September 13, 1979

1094

THE STATE OF TEXAS I

COUNTY OF EASTLAND I

I, OLETA MOSELEY, CLERK of the Court of Civil Appeals, Eleventh Supreme Judicial District of Texas, do hereby certify that the above and foregoing opinion is a true and correct copy of the opinion entered in cause no. 5328, Betty Minyard Stein v. Joseph E. Frank et ux, as the same appears now of record in my said office.

GIVEN under my hand and seal of office this the 19th day of December, 1980.

Oleta Moseley

OLETA MOSELEY, CLERK
Court of Civil Appeals
11th Supreme Judicial District
Eastland, Texas

109-8

NO. 74-8893-a

80-6090

JOSEPH E. FRANK and
FRANCES FRANK

VS.

BETTY STEIN

IN THE COUNTY COURT

AT LAW NUMBER ONE

DALLAS COUNTY, TEXAS

K. P. COURTS 1

Volume II
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ORDER

Be it remembered that on the 5th day of February, 1976, came on for hearing before the Court Plaintiffs' Motion to Deem Admitted Plaintiffs' Requests for Admission and for Assessment of Attorney's Fee, Plaintiffs' Motion to Interline, Plaintiffs' Special Exceptions to Defendant, Cross-Plaintiff's First Amended Original Answer and First Amended Original Cross-Action and Second Original Cross-Action and Second Original Cross-Action, Defendant's Motion for Rehearing on all Pretrial January 14, 1976, Matters and on all New Matters and New Pleadings of Defendant, Cross-Plaintiff and Exception to Amended Order Signed January 23, 1976, for not stating Original Order dated January 9, 1976, and came the Plaintiffs by and through their attorney of record, and came the Defendant in person and as her attorney pro se, and the Court, after considering said Motion to Deem Admitted Requests for Admission, finds that Plaintiffs' Request for Admissions Nos. 1, 2, 3, 4, 5 and 6 should be deemed admitted and that Plaintiffs' attorney is entitled to attorney's fees under the provisions of Rule 169; and the Court further finding that the Plaintiffs' Motion to Interline should be granted by agreement of the parties; and the Court further finds that Plaintiffs' Special Exceptions to Defendant, Cross-Plaintiff's First Amended Original Answer and First Amended Original Cross-Action and Second Original Cross-Action Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10, should be sustained in all respects; the Court further finding that Defendant, Cross-Plaintiff's First Amended Original Answer and First Amended Original Cross-Action and Second Original Cross-Action is outside the jurisdiction of the Court, and as such should be dismissed without prejudice, Plaintiffs' Exceptions Nos. 11 through 19, being directed to said Defendant's Amended Cross-Action, are moot and were not considered

at this time; the Court further finds that Defendant's Motion for Rehearing on all Matters, including Motion for Summary Judgment, should be denied; the Court further finds that the Exception to the Amended Order Signed January 23, 1976, for not stating Original Order dated January 9, 1976, should be overruled;

IT IS THEREFORE ORDERED, ADJUDGED and DECREED that Plaintiffs' Motion to Interline be granted by agreement of the parties;

IT IS FURTHER ORDERED, ADJUDGED and DECREED that Plaintiffs' Motion to Deem Admitted Plaintiffs' Requests for Admission and for Assessment of Attorney's Fee be granted, that Plaintiffs' Requests for Admissions Nos. 1, 2, 3, 4, 5 and 6 be deemed admitted and that Plaintiffs' Reasonable Attorney's Fee be assessed against Defendant in the amount of $100.00;

IT IS FURTHER ORDERED that Plaintiffs' Special Exceptions to Defendant, Cross-Plaintiff's First Amended Original Answer and First Amended Original Cross-Action and Second Original Cross-Action, paragraphs I, IV, V, VI, VII and VIII be sustained in all respects as well as Plaintiffs' Exception No. 1, and that Defendant is hereby granted leave to amend on or before February 13, 1976, and if not amended, or if amended and defects not cured, then Defendant will proceed to trial as if a general denial had been filed, provided that if further pretrial thereto be required, same will be heard prior to trial on February 23, 1976;

IT IS FURTHER ORDERED that Defendant's Motion for Rehearing on all Matters, including Motion for Summary Judgment, be denied;

IT IS FURTHER ORDERED that Defendant's Exception to Amended Order Signed January 23, 1976, for not stating Original Order dated January 9, 1976, be overruled.

To all of which actions and orders of the Court Defendant and Counter-Plaintiff, BETTY MINYARD STEIN, duly objected and excepted.

SIGNED on this the 13 day of February, 1976.

B. F. Coker

JUDGE

ORDER OVERRULING DEFENDANT'S MOTIONS: NO. cc-74-8893-a, Joseph E. Frank And Frances Frank VS. Betty M. Stein. Entered in Volume 44, Pages 881-882, Minutes, County Court at Law NO. 1, Dallas County, Texas

ORDER OVERRULING DEFENDANT'S MOTIONS

K. COURTS

No. CC-74-8893-a

JOSEPH E. FRANK and FRANCES FRANK	I	IN THE COUNTY COURT
VS.	I	AT LAW NUMBER ONE
BETTY (MINYARD) STEIN	I	DALLAS COUNTY, TEXAS

O R D E R

Came on Defendant's Motion to Strike and Motion to Dismiss, as filed on February 12, 1976, Defendant's Motion To Withdraw and To Refile Def.,Cross-Pl's. Answer For Request For Admissions and or Interrogatories as filed on February 12, 1976, Defendant's Motion To Strike Amended Pleadings as contained in Defendant's pleading headed Still Another Additional Supplemental Answer and Motion to Strike Amended Pleadings of Plaintiffs Partially If Not Completely, filed on February 17, 1976, and Defendant's Motion for Continuance as filed on February 18, 1976, and the Court having considered the same finds each motion should be denied.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Defendant's Motion to Strike and Motion to Dismiss, Defendant's Motion To Withdraw and To Refile Def.,Cross-Pl's. Answer For Request For Admissions and or Interrogatories, Defendant's Motion To Strike Amended Pleadings ~~and~~ as contained in Defendant's pleading headed Still Another Additional Supplemental Answer and Motion to Strike Amended Pleadings of Plaintiffs Partially If Not Completely, and Defendant's Motion for Continuance as identified herein be and are hereby denied.

SIGNED this 19 day of February, 1976.

B. F. Coker
JUDGE

44 945

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ORDER OVERRULING DEFENDANT'S MOTION: NO. cc-74-8893-a, Joseph E. Frank And Frances Frank VS. Betty M. Stein. Entered in Volume 44 Page 945, Minutes, County Court at Law NO. 1, Dallas County, Texas

CORRECTIONS IN ORDER

FILED
DEC 29 1975
TOM E. ELLIS, Clerk County Court of Dallas County at Law No. 1
By [illegible] Deputy

Corrections In Order

UNDER RULE
Rules, 316,
317, 318,
319, V.A.T.R.

NO. 74-8893-A

JOSEPH E. FRANK,
AND FRANCES FRANK

VS.

BETTY (MINYARD) STEIN

IN THE COUNTY COURT
NUMBER ONE, DALLAS
COUNTY, TEXAS

CC
1

TO THE HONORABLE JUDGE OF SAID COURT:

Now comes defendant, cross=plaintiff, Betty (Minyard) Stein, in the above entitled and numbered cause and requests and formerlly demands that the following corrections be made in said Order of Dec. 19, 1975 in the event the court does not set the Order aside in whole. Said corrections to be that the judge of said court above make a reservation as to the striking of the cross=action concerning jurisdiction of the above court. And, also, said judge stated that the prayed for in the cross=action by cross-plaintiff amount of $5,000.00 was outside of his jurisdiction under 97-C, V.A.T.R.

WHEREFORE, DEFENDANT, CROSS=PLAINTIFF, PRAYS THAT SAID ORDER BE ORDERED CORRECTED IN THE EVENT THE ORDER OF Dec. 19, 1975 is sustained.

Respectfully submitted,

Mrs. Betty M. Stein

BETTY (MINYARD) STEIN, PRO SE

CORRECTIONS IN ORDER: NO. cc-74-8893-a, Joseph E. Frank And Frances Frank VS. Betty M. Stein. Filed, December 29, 1975, Tom E. Ellis Clerk County Court of Dallas County, at Law NO. 1. By (signed) Willie C. Davis, Deputy

ORDER

No. CC-74-8893-a

K. P. COURTS 1

JOSEPH E. FRANK and FRANCES FRANK	()	IN THE COUNTY COURT
VS.	()	AT LAW NUMBER ONE
BETTY STEIN	()	DALLAS COUNTY, TEXAS

ORDER

Be it remembered that on the 19th day of December, 1975, came on for hearing before the Court Plaintiffs' Special Exceptions to Defendant's Original Answer and Original Cross-Action, Defendant's Motion for Summary Judgment, Defendant's and Cross-Plaintiff's Motion for Summary Judgment, Motion of Default Judgment as to part of Cross-Action concerning JOSEPH FRANK, Motion for Default Judgment as to part of the Cross-Action concerning FRANCES FRANK, Defendant's Motion to Dismiss, and Objections to Plaintiff's and Cross-Defendant's Interrogatories, and came the Plaintiffs by and through their attorney of record, and came the Defendant in person and as her attorney pro se, and the Court, after considering said Special Exceptions and Motions and the arguments of counsel and party in regard thereto, finds that Plaintiffs' Special Exceptions to Defendant's Original Answer Numbers 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 should be sustained in all respects; the Court further finding that Defendant's Original Cross-Action is outside the jurisdiction of the Court and contrary to Rule 97(g) of Texas Rules of Civil Procedure, and as such should be dismissed without prejudice, Plaintiffs' Exceptions numbers 16 through 22, being directed to said Defendant's Original Cross-Action, are moot and were not considered at this time; the Court further finds that Defendant's Motion for Default Judgment as to Defendant's Cross-Action against FRANCES FRANK as well as the Motion for Default Judgment as to Defendant's Cross-Action against JOSEPH E. FRANK should be overruled for the reason that said motions are moot, answers having previously

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been filed thereby, and for the further reason that Defendant's said Original Cross-Action against said Plaintiffs being dismissed as being outside the jurisdiction of this Court and contrary to Rule 97(g); and the Court further finds that Defendant's Motion to Dismiss should be denied in all respects; and the Court further finding that Defendant's Objections to Plaintiffs' and Cross-Defendants' Interrogatories should be denied in all respects;

IT IS, THEREFORE, ORDERED that Plaintiffs' Special Exceptions to Defendant's Original Answer, paragraphs III, IV, V, and VI as well as the Exhibits attached thereto be sustained in all respects and that Defendant is hereby granted leave to amend on or before January 23, 1976;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant's Original Cross-Action against Plaintiffs be dismissed without prejudice;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant's Motion for Summary Judgment, Motion for Default Judgment as to FRANCES FRANK, Motion for Default Judgment as to JOSEPH E. FRANK, and Motion to Dismiss be each denied in all respects;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant's Objections to Plaintiffs' and Cross-Defendants' Interrogatories be denied and overruled in all respects, and Defendant is granted an additional time within which to answer same to on or before January 23, 1976.

To all of which actions and orders of the Court Defendant and Counter-Plaintiff, BETTY MINYARD STEIN, duly excepted.

SIGNED on this the 7 day of ~~December~~ January, 1976.

JUDGE

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ORDER - Page Six

ORDER: NO. cc-74-8893-a, Joseph E. Frank And Frances Frank VS. Betty M. Stein. Entered in Volume 44, Pages 346-347, Minutes, County Court at Law NO. 1, Dallas County, Texas

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K.P. COURTS 4

MOTION FOR
***ADDITIONAL CORRECTIONS
IN ORDER

FILED
JAN 8 1976
TOM E. ELLIS, Clerk County Court
of Dallas County, at Law No. 6
By [illegible] Deputy

NO: 7748893-A

JOSEPH E. FRANK
AND FRANCES FRANK

VS.

BETTY (MINYARD) STEIN

IN THE COUNTY COURT AT LAW NUMBER ONE, DALLAS COUNTY, TEXAS

TO THE HONORABLE COURT:

Now comes Defendant, cross-plaintiff, Betty (Minyard) Stein, in the above entitled and numbered cause and corrects said order of Dec. 19, 1975 further,

Defendant, cross-plaintiff stated loudly and clearly and excepted that she objected to the entire rulings and order of said presiding judge and the wrongful actions of plaintiff, cross-defendants's attorney in using the special exception tool which the law gives to a defendant in a case and not to a plaintiff. And said plaintiff's, cross-defendants's attorney failed to state in the wrongful and erroneous order that defendant, cross-plaintiff objected as well as excepted to the rulings and order of said judge. The last line of said order [illegible] reflect defendant, cross-plaintiff's objection and if said judge of said above court allows the wrongful, erroneous order to stand, then the word objected should be incorporated therein said order. Defendant, cross-plaintiff does not object to time to amend being given to her by the court; but she does object to being ordered to strike her material facts and exhibits, and she is going to amend by abiding by the law concerning a defendant, cross-plaintiff's answer.

WHEREFORE, PREMISES CONSIDERED, DEFENDANT, CROSS-PLAINTIFF PRAYS THAT;

SAID ORDER BE CORRECTED TO INCLUDE HER OBJECTIONS TO ALL RULINGS, AND THE ENTIRE ORDER, EXCEPT HER RIGHT TO AMEND ACCORDING TO THE LAW.

Respectfully submitted,

Mrs. Betty (Minyard) Stein

BETTY (MINYARD) STEIN, PRO SE

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MOTION FOR ADDITIONAL CORRECTIONS IN ORDER: NO. cc-74-8893-a, Joseph E. Frank And Frances Frank VS. Betty M. Stein. Filed, January 8, 1976, Tom E. Ellis, Clerk County Court of Dallas County at Law NO. 1. By (signed) Willie C. Davis, Deputy

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FILED
JAN 9 1976
TOM E. ELLIS, Clerk County Court
of Dallas County, at Law No. 1
By [illegible] Deputy

NO. 75-8893-A ******

ADDITIONAL
OBJECTIONS AND EXCEPTIONS
TO
ORDER

RENDERED DEC. 19, 1975

JOSEPH E. FRANK AND FRANCES FRANK	IN THE COUNTY COURT AT LAW NUMBER ONE, DALLAS COUNTY, TEXAS
VS.	
BETTY (MINYARD) STEIN	

TO THE HONORABLE COURT: 1.

Now comes defendant, cross-plaintiff, Betty (Minyard) Stein, in the above entitled and numbered cause and objects and excepts to the signing of said and did object and except on Jan. 8, 1976 of Dec. 19, 1975 on the grounds that the Judge of said court reserved the right to change his rendition of said Dec. 19, 1975 order if defendant, cross-plaintiff brought him the law and he was to hear the law on hearings on Jan. 8, 1976; but due to a motion for continuance filed by defendant cross plaintiff, posponed said hearings in all matters until Jan. 14, 1976; therefore, said judge's pre-mature signing of said order before the hearings on said matter is unconstitutional under Fed. and State Constitutions. Fed. Const, Amend. Foruteen and Five, Unequal Protection Admendment, Title 42, sec 1983, and Texas Constitution, etc.

II.

WHEREFORE, DEFENDANT, CROSS-PLAINTIFF PRAYS THAT SAID ORDER BE SET ASIDE AS FAR AS THE SIGNING OF SAID INSTRUMENT AND FOR OTHER STATED REASONS PREVIOUSLY, IN PART, FILED OBJECTIONS AND EXCEPTIONS TO SAID ORDER OF DEC. 19, 1976.

RESPECTFULLY SUBMITTED,

Mrs. Betty (Minyard) Stein

BETTY (MINYARD) STEIN, PRO SE

ORDER OVERRULING DEFENDANT'S MOTIONS

No. CC-74-8893-a

JOSEPH E. FRANK and FRANCES FRANK	()	IN THE COUNTY COURT
VS.	()	AT LAW NUMBER ONE
BETTY STEIN	()	DALLAS COUNTY, TEXAS

O R D E R

Be it remembered that on the 14th day of January, 1976, came on for hearing before the Court Defendant's Motions: Corrections in Order; Conclusions of Law by the Judge as to the Pretrial Rulings and Summary Judgment Ruling; Motion to set December 19, 1975, Order Aside in Whole or in Part as well as Motion for Summary Judgment to be Set Aside; Motion for Rehearing on December 19, 1975, Pretrial Matters and Motion for Summary Judgment; Defendant, Cross-Plaintiff's Special Exceptions to Plaintiff, Cross-Defendants' First Original Amended Petition; Defendant, Cross-Plaintiff's Counter Answer to Plaintiffs' and Cross-Defendants' Answer to Defendant's and Cross-Plaintiff's Motion for Summary Judgment; Defendant, Cross-Plaintiff's Counter Answer to Plaintiff, Cross-Defendant's Answer to Defendant's Cross-Plaintiff's Motions for Default Judgments and to Dismiss; Second Notice for Conclusions of Law on Rulings by the Court; Motion for Additional Corrections in Order; Objections and Exceptions to Hearing, Rulings, and Order on Plaintiff's Special Exceptions and Cross-Action; Additional Objections and Exceptions to Order Rendered December 19, 1975; and Defendant's ~~Special Exceptions~~ Bill of Exceptions BY filed January 28, 1975; and came the Plaintiffs by and through their attorney of record, and came the Defendant in person and as her attorney pro se, and the Court, after considering said matters finds that Defendant's Special Exceptions and Motions should be overruled except that the Motion for Correction to Order Rendered December 19, 1975, should be sustained only to the extent to eliminate reference to Rule 97(g) of Texas Rules of Civil Procedure, and to note Defendant's objections;

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IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Defendant's Special Exceptions filed January 8, 1976, nos. 1 through 7 and Special Exception filed January 28, 1975, all to Plaintiffs' First Amended Original Petition be overruled;

IT IS FURTHER ORDERED that Defendant's Motion for Conclusions of Law by the Judge as to Pretrial Rulings and Summary Judgment Ruling be denied;

IT IS FURTHER ORDERED that the Motions to Set Aside the December 19, 1975, Order, for Rehearing on said December 19, 1975, Pretrial Matters and Motion for Summary Judgment and Defendant's Motion for Default Judgment and to Dismiss filed January 8, 1976, be overruled;

IT IS FURTHER ORDERED that Defendant's Objections and Exceptions to Hearing, Rulings and Order on Plaintiff's Special Exceptions and Cross-Action be overruled;

IT IS FURTHER ORDERED that Defendant's Motion for Corrections in Order Rendered December 19, 1975, be sustained to eliminate reference to Rule 97(g) of Texas Rules of Civil Procedure only, and in all other respects that same be denied;

IT IS FURTHER ORDERED that Defendant's Objections and Exceptions to Hearing, Rulings, and Order on Plaintiff's Special Exceptions and Cross-Action filed January 8, 1976, and Defendant's Additional Special Exceptions by Defendant, Cross-Plaintiff to Plaintiff, Cross-Defendants' First Amended Original Petition filed January 13, 1976, nos. 1, II and 2 be overruled.

IT IS FURTHER ORDERED THAT Defendant's Motion for Additional Corrections in Order for her Objection to the Order rendered December 19, 1975 be so noted on the Order be granted.

To all of which actions and orders of the Court Defendant and Counter-Plaintiff, BETTY MINYARD STEIN, duly objected and excepted.

SIGNED ON THIS THE 23 day of January, 1976.

JUDGE

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ORDER OVERRULING DEFENDANT'S MOTIONS: NO. cc-74-8893-a, Joseph E. Frank And Frances Frank VS. Betty M. Stein. Entered In Volume 44, Pages 623-624, Minutes, County Court at Law NO. 1, Dallas County, Texas

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AMENDED ORDER OVERRULING DEFENDANT'S MOTIONS

No. CC-74-8893-a

JOSEPH E. FRANK and FRANCES FRANK	()	IN THE COUNTY COURT
VS.	()	AT LAW NUMBER ONE
BETTY STEIN	()	DALLAS COUNTY, TEXAS

K. P. COURTS 1

AMENDED ORDER

Be it remembered that on the 19th day of December, 1975, came on for hearing before the Court Plaintiff's Special Exceptions to Defendant's Original Answer and Original Cross-Action, Defendant's Motion for Summary Judgment, Defendant's and Cross-Plaintiff's Motion for Summary Judgment, Motion of Default Judgment as to part of Cross-Action concerning JOSEPH E. FRANK, Motion for Default Judgment as to part of the Cross-Action concerning FRANCES FRANK, Defendant's Motion to Dismiss, and Objections to Plaintiff's and Cross-Defendant's Interrogatories, and came the Plaintiffs by and through their attorney of record, and came the Defendant in person and as her attorney pro se, and the Court, after considering said Special Exceptions and Motions and the arguments of counsel and party in regard thereto, finds that Plaintiffs' Special Exceptions to Defendant's Original Answer Numbers 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 should be sustained in all respects; the Court further finding that Defendant's Original Cross-Action is outside the jurisdiction of the Court, and as such should be dismissed without prejudice, Plaintiff Exceptions numbers 16 through 22, being directed to said Defendant's Original Cross-Action, are moot and were not considered at this time; the Court further finds that Defendant's Motion for Default Judgment as to Defendant's Cross-Action against FRANCES FRANK as well as the Motion for Default Judgment as to Defendant's Cross-Action against JOSEPH E. FRANK should be overruled for the reason that said motions are moot, answers having previously been filed thereby, and for the

further reason that Defendant's said Original Cross-Action against said Plaintiffs being dismissed as being outside the jurisdiction of this Court; and the Court further finds that Defendant's Motion to Dismiss should be denied in all respects; and the Court further finding that Defendant's Objections to Plaintiffs' and Cross-Defendants' Interrogatories should be denied in all respects;

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Plaintiffs' Special Exceptions to Defendant's Original Answer, paragraphs III, IV, V, and VI as well as the Exhibits attached thereto be sustained in all respects and that Defendant is hereby granted leave to amend on or before January 23, 1976;

IT IS FURTHER ORDERED that Defendant's Original Cross-Action against Plaintiffs be dismissed without prejudice;

IT IS FURTHER ORDERED that Defendant's Motion for Summary Judgment, Motion for Default Judgment as to FRANCES FRANK, Motion for Default Judgment as to JOSEPH E. FRANK, and Motion to Dismiss be each denied in all respects;

IT IS FURTHER ORDERED that Defendant's Objections to Plaintiffs' and Cross-Defendants' Interrogatories be denied and overruled in all respects, and Defendant is granted an additional time within which to answer same to on or before January 23, 1976.

To all of which actions and orders of the Court Defendant and Counter-Plaintiff, BETTY MINYARD STEIN, duly objected and excepted.

SIGNED ON THIS THE ~~23~~ 22D day of January, 1976.

B. F. Coker
JUDGE

263

44 626

AMENDED ORDER - Page Two

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AMENDED ORDER OVERRULING DEFENDANT'S MOTIONS: NO. cc-74-8893-a, Joseph E. Frank And Frances Frank VS. Betty M. Stein. Entered in Volume 44, Pages 625-626, Minutes, County Court at Law NO. 1, Dallas County, Texas

MOTION FOR ORDER: NO. cc-74-8893-a, Joseph E. Frank And Frances Frank VS. Betty M. Stein. Filed, January 26, 1976, L. E. Murdoch Clerk County Court of Dallas County, at Law NO. 1. By (signed) Willie C. Davis, Deputy

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ORDER

JOSEPH E. FRANK AND FRANCES FRANK

VS.

BETTY (MINYARD) STEIN

IN THE COUNTY COURT AT LAW, DALLAS COUNTY, TEXAS COUNTY COURT NUMBER ONE

On this the _____day of ____, 1976, it is the order and decree of this court that the Lone Star Gas Co, The Dallas Power and Light Co, The Southwestern Bell Telephone Co. and the Avon Cosmetics Co. all of Dallas County, Texas or with reasonable time, produce, immediately, the records showing service extended to the correct apartment No. on March 25, 1976 approximately to Joseph E. Frank at 6602 Westchester Drive, University Park, Tex. AND THE AVON COSMETIC CO RECORDS SHOWING THE APT. NO. TO WHICH packaggs were sent to Frances Frank with sworn statements as to the true and correct apartment no. to which service was extended and packages were sent.

JUDGE OF SAID COURT

302

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ORDER GRANTING DEFENDANT LEAVE TO REFILE REQUEST FOR ADMISSIONS AND/OR INTERROGATORIES

K. F. COURTS

No. CC-74-8893-a

Joseph E. Frank and Frances Frank	I	IN THE COUNTY COURT
vs.	I	AT LAW NUMBER ONE
Betty H. Stein	I	DALLAS COUNTY, TEXAS

O R D E R

On the Court's Own Motion, Defendant's, Cross-Plaintiffs Requests and Interrogatories filed herein on January 27, 1976, are hereby struck for non-compliance with the Texas Rules of Civil Procedure.

Defendant is granted leave to refile Requests for Admissions and/or Interrogatories in compliance with the Texas Rules of Civil Procedure.

SIGNED this 29 day of January, 1976.

B. F. Coker

JUDGE

333

44 692

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ORDER GRANTING DEFENDANT LEAVE TO REFILE REQUESTS FOR ADMISSIONS AND/OR INTERROGATORIES: NO. cc-74-8893-a, Joseph E. Frank And Frances Frank VS. Betty M. Stein. Entered in Volume 44, Page 692, Minutes, County Court at Law NO. 1, Dallas County, Texas

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ORDER DISMISSING DEFENDANT, CROSS-PLAINTIFF'S FIRST AMENDED ORIGINAL CROSS-ACTION AND SECOND ORIGINAL CROSS-ACTION

No. CC-74-8893-a

JOSEPH E. FRANK and FRANCES FRANK	I	IN THE COUNTY COURT
VS.	I	AT LAW NUMBER ONE
BETTY STEIN	I	DALLAS COUNTY, TEXAS

K. P. COURTS II

ORDER

On the Court's own Motion, Defendant, Cross-Plaintiff's First Amended Original Cross-Action and Second Original Cross-Action filed herein on January 14, 1976, is hereby dismissed for want of jurisdiction.

SIGNED this 5 day of February, 1976.

B. F. Coker

JUDGE

342

44 795

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ORDER DISMISSING DEFENDANT,CROSS-PLAINTIFF'S FIRST AMENDED ORIGINAL CROSS-ACTION AND SECOND ORIGINAL CROSS-ACTION: NO. cc-74-8893-a Joseph E. Frank And Frances Frank VS. Betty M. Stein. Entered in Volume 44 Page 795, Minutes, County Court at Law NO. 1, Dallas County, Texas.

80-5090

22 Objections and Exceptions to Proposed or Idel Statements of Facts — Rose

23 Exhibit 18 - Memorandum of Facts - Letter — —

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